



**Ontario Association of  
Residences Treating Youth**

*Centre of Excellence for Residential Care in Ontario*

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## Submission Regarding Bill 89 - Supporting Children, Youth and Families Act, 2016



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## INTRODUCTION

The Ontario Association of Residences Treating Youth (OARTY) is pleased to provide input into *Bill 89 – The Child, Youth and Family Services Act, 2016* (referred to as “the Act” throughout the rest of this submission). OARTY supports the government’s goal of improving outcomes for children, moving toward a child-centred practice, acknowledging the voice of young people, and addressing systemic racism.

OARTY has some specific comments and suggestions on some of the provisions included within the Act. These comments are meant to be helpful in nature in terms of adding to the transformational potential of the Act. Within this submission, we have focused on our concerns and offered solutions but this should by no means be taken as a lack of support of the overall Act. We are pleased to see many of the changes introduced in this legislation and fully support the government’s move to update the legislation. The concerns we highlight within this submission pertain to the personalization in service delivery, creating better service experience, and creating better outcomes for the most vulnerable children in Ontario.

OARTY’s mission, like that of the province, is to provide excellent, outcomes-based care for children, youth, and adults. We are stating this explicitly here and trust that it is implied throughout the rest of the document.

Our submission addresses a variety of ways and means which would add enormous value to the lived experience of the children of Ontario who are in care. These proposed changes challenge the current structure and thinking of the system with the goal of improving outcomes for the children primarily, and the sector as a whole, while also increasing transparency and accountability.

We look forward to continuing to work with government to improve the residential services and child welfare sectors as we move forward on a path of transformational change.

## WHO WE ARE

The Ontario Association of Residences Treating Youth (OARTY) is a provincial association of private residential services, made up of:

- residential treatment centres (2 centres with 200 children)
- community group homes (161 homes with 1,234 children)
- treatment foster care (588 homes and 1,238 children)
- Day treatment, tutors, mentors, life skills training and supervised independence apartments and section 23 classrooms

On any given day OARTY members have 30-35% of children in the child welfare sector in their care. Last year, OARTY’s member agencies provided over 695,000 days of care to 2,582 children and youth and to 382 adults who required residential care. A large portion of these children, youth, and young adults were in the care of Ontario’s Children’s Aid Societies, who turn to us when the internal CAS resources are not able to manage the child’s needs and as a result the CAS seeks out an external placement. Increasingly OARTY members are providing services to children and youth placed through the Multiple / Complex Special Needs funding mechanism. These children and youth



are placed with OARTY members after community based services and the children's mental health sector are unable to meet their needs.

Services are funded on a per-diem basis by the Ontario government, through a variety of agreements with transfer payment agencies (TPAs). The all-inclusive per-diem rates are set by MCYS when a home opens. Like all agencies in Ontario providing residential services, OARTY agencies are sanctioned and licensed by the Ministry of Children and Youth Services under *The Child and Family Services Act*.

## OUR RESEARCH

OARTY has implemented a system of outcome measurement using evidence based instruments. We maintain a data repository of anonymized clinical information on the clients served by member agencies. The client data comprises of:

- Clinical profiles drawn from random samples of all clients in service from 98 agencies
- Clinical profiles of all clients enrolled in service for ten agencies
- The results of a program of testing children every nine months from the date of admission until discharge
  - Initially, agencies were testing clients with 8 measures: Degrees of Adversity and Trauma, CGAS, Connors Global Index, SA-45, FAB-C, Level of Care, Daily Stressors and the Parental Bonding Instrument
  - Currently, agencies use combinations from a basket of 49 instruments
- Business and financial data at the level of
  - Agencies (n = 213)
  - Programs (n = 476)
  - Group homes (n = 261)
  - Foster parents and staff

The repository contains clinical profiles on 4,616 unique clients from 98 agencies. A total of 1,361 new clients were added in 2015 for our sixth research report in the Partners in Care (PIC) series of reports.

OARTY members have been administering risk screening instruments and outcome measures of their clients since 1996. Agencies have shared clinical profile data and test results with OARTY since then. There are forty-nine distinct instruments in the OARTY basket of outcome measures. Some of the instruments serve two or three different constructs, such as positives, functioning and risk or different client groups, such as infants and adolescents. Different combinations of the measures are currently used by the member agencies. Outcome evaluation is occurring primarily at the agency level. At the association level, OARTY gathers anonymized data from its members and summarizes the results.

OARTY has been supporting a longitudinal outcome study of children and youth receiving services since 1993. This study began with five agencies initially and has since expanded.

OARTY can account for the impact of our services on the children served and we can do this at a high level. We firmly believe in the importance of measuring and monitoring outcomes to lead to a system of continuous quality improvement.



## BILL 89 – OVERALL COMMENTS

### PREAMBLE

We were pleased to see the inclusion of a preamble into the Act, and appreciated its readability. We were hopeful that the rest of the Act would be more user-friendly in terms of readability but understand that certain language must be used as this is a legal document.

We are supportive of the increase in the age of protection, and the inclusive nature of the Act. In particular we were pleased to see the focus on the rights and needs of the child and the move to make services more culturally appropriate for all children in the child welfare system, including First Nations, Inuit, Metis, and black children and youth.

The preamble itself is very child-focused but when you get into the act, especially around licensing, it reverts back to “old” language where it is facility focused versus child focused. We have further expanded upon our concerns under this area in the section entitled “Part IX Residential Licensing” of this submission.

The preamble appears to be aspirational in nature and while it will assist with the interpretation of the Act we are not sure that the language used is “strong” enough to ensure a cultural shift. We believe that Bill 57 - Katelynn’s Principle Act (Decisions Affecting Children), 2016 should be more fully incorporated into the Act.

### INCREASING THE AGE OF PROTECTION

OARTY has been an advocate for increasing the age of protection and we were pleased to see this incorporated into the new Act. While we are supportive of the increase in the age of protection to 18, we do have some concerns with how this is incorporated into the Act.

Concern: Society Agreements with 16 and 17 Year Olds – while this part of the Act does make it clear that a 16 or 17 year old must voluntarily consent to enter into an agreement for care with a Society, it does not make the Societies obligations to take that child into care clear. Our fear is that unless the Society is obligated to provide care, there will be circumstances where 16 and 17 year olds are left in unsafe situations due to financial constraints.

Solution:

If a 16 or 17 year old is seeking to enter into an agreement with a Society, they should be obligated to provide services.

Concern: Duty to Report Does Not Apply to Older Children – while the Act states that the duty to report does not apply to older children it goes on to say that a person may make a report under certain circumstances and conditions. This is unclear and could lead to individuals not knowing their responsibilities in terms of the duty to report.



Solution:

We feel that there either should or should not be a duty to report (i.e. either yes or no, not maybe) to ensure that the Act is appropriately interpreted. One way to address this would be to state that there is a duty to report in the case of older children but only with their consent.

Concern: The Age of Protection is Raised but the Age of Transition is Not – While the age of protection is raised in the Act, there is no mention of raising the age of transition or how this will be handled.

## ENSURING PLACEMENTS MEET THE NEEDS OF THE CHILD

Concern: The Need to Ensure the Best Placement to Meet the Needs of the Child is Not Adequately Addressed in the Act – Section 106.2(a) states that placements should “*represent(s) the least restrictive alternative for the child*”. We strongly believe that “*and is in their best interests based on an assessment*” should be added to this statement.

Solution:

In order to ensure appropriate placements, the Act needs to be reviewed and in all cases the need to ensure a placement meets the needs of the child based on an assessment needs to be added to the criteria to ensure that the primary driver of a placement is meeting the needs of the child. Without this provision, other factors can be seen to be of more importance in determining the placement and this determination is left open to the interpretation and individual viewpoints of Societies. We have further expanded on the concept of appropriate placements in the section entitled “Placements – a Child Focused System”.

## REGULATIONS

Concern: Many of the Details of the Act will be Spelled Out in Regulations – the way in which the Act is interpreted and rolled out “on the ground” will be guided by regulations and directives which are unknown. As mentioned previously, while the preamble section of the Act is very child focused the rest of the Act does not embed these principles throughout in a strong and consistent manner and there is a possibility that the interpretation of the Act will not remain constant through future governments.

## PART IX – RESIDENTIAL LICENSING

While there were some positive changes in the residential licensing section, including the application of more accountability and transparency, we do have some concerns with this part of the Act.

Concern: The residential licensing section of the Act is not child-focused – this section is “facility” or building focused as opposed to being child focused. With the revision of the Act there was a missed opportunity to re-imagine the residential services sector and write legislation that allowed for innovation and forward thinking improvements.



Solution:

The current service delivery system is *facility driven* - the system builds an inventory of programs and looks for clients to fill them. This needs to change for real innovation to occur. The service delivery system needs to become *child driven*. The structure (both licensing and funding) needs to follow the child, not the bed. In a child focused system:

1. Children would receive evidence based assessments upon entry in the child welfare system that would measure the level of care required to meet the risk/need and would be placed according to the level of risk.
2. Children would have access to the right level of care, without going through a series of failures in a system that was never designed for their needs.
3. The services provided would be required to measure the outcomes, child by child, and share this data, in an ethical way, with a data repository that would assess the outcomes achieved by type of child and by type of intervention provided in the context of the cost.
4. Pathogenic needs would be targeted with evidence based practice.
5. The model of care would match the type of risk presented (general responsivity principle).

A true child-focused system would focus more on the services provided versus the facilities that these services are provided within. This would allow for customization to meet a child's needs, flexibility, and innovation. In terms of licensing, an operator would be licensed to provide care (foster, treatment foster, group, mixed modality, etc) and given the flexibility to "build" programs and services around a child's needs, with the appropriate accountability and transparency measures in place. This type of licensing would allow for the emergence of innovative models that are designed for the child and would ensure that there are no unlicensed programs operating. It is our firm belief that all programs should be licensed and subject to oversight to ensure accountability, but that the model needs to change to allow more flexibility in terms of services and programs provided.

Concern: The Qualifications of Residential Licensing Inspectors are Not Detailed – In the current system, as well as within this new Act, Directors are by virtue of their office an inspector. The Minister is also given the power to appoint inspectors for the purposes of this part. Without explicitly listing some or all of the qualifications of an inspector, the Act leaves this open. Without experts who have a background in social services and experience conducting inspections, there is the potential that inspections will be facility focused and that this could become a checklist or paper compliance model.

Solution:

Giving due consideration to the necessary qualifications of inspectors and spelling it out in the Act, will ensure that the inspections being carried out are on actual services and not just checklists of facility focused items. Qualified inspectors will be able to assess programs and services through a quality assurance lens and will be equipped to deal with inspections in a consistent, transparent, and meaningful manner.

## LICENSING - GRANULAR CONCERNS

106.7 – Notice of proposed removal – this section specifically speaks to foster care and should be broadened to include all residential placements.

256.2 – States that a Director may, at any time, change the maximum number of children set out in the license. We understand that the intent of this is to allow for flexibility (for example allowing sibling



groups to be placed together even if it means increasing the maximum number of children set out in the license). However, this clause will be open to interpretation and we feel that there needs to be a notice period to lower the maximum number of children set out in the license (or state that it can only be lowered during annual licensing).

273.2 – States that a demand that a record or other thing to be produced for inspection may be made verbally or in writing. We believe that this should be revised to state that it must be in writing to ensure transparency in the process.

## **PLACEMENTS - A CHILD FOCUSED SYSTEM**

OARTY believes that all children, youth, and young adults in Ontario should be placed according to their therapeutic best interest. To achieve this, all children, youth, and young adults in Ontario who require out of home care, should be assessed using a standardized, evidence-informed assessment tool to inform placement decisions. The information from the standardized assessments should be updated at every review of the child's Plan of Care (POC); whenever there is a placement breakdown; or any other change or significant life event. Providers should be required to show evidence of the ability to provide services that match levels of support described by the assessment tool.

In the current system, assessments are not done to match the child with the appropriate model and level of care. With no triage system, we see multiple placement breakdowns, which result in extended lengths of stay in care arising from the negative impact of multiple moves in the system. Multiple placements mean more time in care before the most meaningful treatment is actually begun.

Our Partners in Care (PIC) demonstrates that on average children have 5 prior placements before being placed with an OARTY member agency (and this number climbs to 52). The data on prior placements demonstrates clearly that there is a need for a system of triage assessment long before the referral to treatment foster care or group care, with the goal of reducing multiple placement breakdowns and moving children with diagnosable and manifest special needs into the appropriate level of care. Acting early and accurately will produce better outcomes and more cost-effective service. The focus needs to be on placement stability. Stable placements enable treatment goals to be met, allowing children the opportunity to form relationships and focus on being a kid, as opposed to worrying about when the next move will occur.

To address the issue of multiple placements, an initial assessment must become the first step in the process. Evidence based tools are available to correctly assess the child. OARTY has a battery of evidence based triage tools that member agencies have used for more than a decade. Incorporating an initial triage would be a significant change in procedure in the child welfare sector. With an initial, correct placement, we can ensure the children, youth, and young adults get the appropriate treatment and care.

Even with a radically improved triage system, there will still be some need for adjustments. The same tools used upon intake into the child welfare system should be those used to determine any subsequent changes of care necessary to ensure appropriate matching of placements.



## FUNDING

All of those who participate in the child welfare system strive to achieve fair and just balance between providing the highest quality of care and the need to contain escalating costs. In the process, the system must strive to prevent an imbalance favouring cost reductions over the needs of children and youth.

The new Act is silent on issues related to funding. The current system has systemic issues with its funding structure(s), not the least of which is the lack of a funding mechanism to address cost of living increases and increases to staff wages in the private per diem sector. The Act does nothing to ensure that these inequities will be addressed.

Furthermore, there will be an need for increased funding for the sector as a whole in order to address the new provisions laid out in the Act. Consideration should also be given to tying funding to outcomes to ensure a transparent system that is tied to quality assurance.

## PART X PERSONAL INFORMATION

Concern: Minister's Power to Collect, Use and Disclose Information is Not Mandatory - Under this section of the Act, the Minister is given the power to collect, use and disclose personal information. However, it simply states that the Minister may collect information and may conduct research and analysis.

Solution:

The collection of a minimum data set, the analysis of said data on a regular basis, and the reporting of said data should be mandatory. In order to ensure that the system is adequately performing, prepared to meet future concerns and trends, and is data-driven we need to have a base level of data analysis and research upon which to plan.

Data on placement stability should be tracked across the care continuum to ensure that appropriate treatment and care is being provided. This data should be reviewed on an annual basis to ensure that placements are being made based on assessment data and that the placement meets the appropriate level of care.

The sharing of information and data across the system needs to be improved. While the new Child Protection Information Network (CPIN) system is a good start in addressing this need, it does not include a mechanism to track data across the various sectors in the system (including but not limited to outside placements, youth justice, mental health). There is a need for a universal database that contains appropriate client consent mechanisms. This database should meet standards for encryption and should allow for hierarchical access.

Consideration should be given for implementing a set of common performance indicators across the child welfare, youth justice, and mental health sectors to ensure that these intersecting sectors are speaking the same language when it comes to child development.



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Identifying key indicators would make it possible to evaluate the effectiveness of programs and services across providers and sectors. It should be noted that when identifying and reporting on key indicators, the profile of the children should be considered. Tying the profile of children to the indicators, allows for all children and youth to feel that their successes and improvements are important and worth recognizing. It also allows for the Ministry and researchers to have a better idea of how the system is performing.

The collection of basic demographic data should be a part of the ongoing data collection for child welfare, including but not limited to: ethnic backgrounds of those served; age of entry into care; sociodemographic background of families served; mental health diagnosis; and degree of trauma. The basic demographic data should be reviewed annually for trends to determine how agencies are responding to diverse communities and to identify trends in service.

An ethical procedure and protocol for access to this data should be developed based on existing privacy legislation and best practices in data collection and research. Consideration should be given to allowing access to the core data (minus identifying information) by researchers and other relevant parties to encourage the dissemination of information and the development of future best practices. Allowing access to the core data will also ensure greater transparency and accountability.

Thank you for this opportunity to provide feedback. For more information please contact:

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