



Qalipu
FIRST NATION

A Pocket Guide

*to the Act respecting First Nations, Inuit and Metis children, youth
and families*

This document is not an official statement of the Act respecting First Nations, Inuit and Metis children, youth and families. For purposes of interpreting and applying the law, users should consult the authoritative text of the Act.



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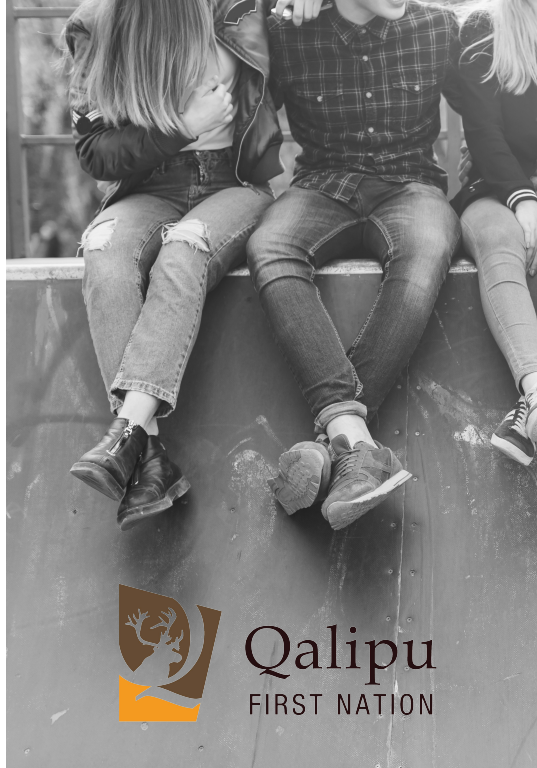


The Act respecting First Nations, Inuit and Metis children, youth and families is federal legislation. The Act, amongst other things, provides for principles, applicable on a national level, to the provision of child and family services in relation to Indigenous children (Sections 9-17 of the Act).

A Pocket Guide

Section 9 – National Principles

- Provides direction as to how the Act is to be interpreted and administered in accordance with best interest of child (BIOC).
- Provides 2 principles:
 - Cultural continuity s9(2)
 - Substantive equality s9(3)



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BIOC

Section 10 - Best Interests of Indigenous Children

- 10(1) requires best interests be “a primary consideration” wherever a decision or action is taken; also best interests are “paramount consideration in a child apprehension.”
- 10(2) “primary consideration” is to safety, security, and well-being as well as ongoing relationships with family, community and connection to culture.
- 10(3) lists 8 best interest factors to consider.
- 10(4) says best interests to be construed consistently with Indigenous law applicable, to the extent possible.



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Effect of Services

Section 11 – Effect of Service

Child and family services provided in relation to Indigenous children must:

- Take into account child's needs including physical, emotional and psychological safety, security and well-being,
- Take into account child's culture,
- Allow the child to know his/her family origins,
- Promote substantive equality between child and other children.

Notice

Section 12 – Notice

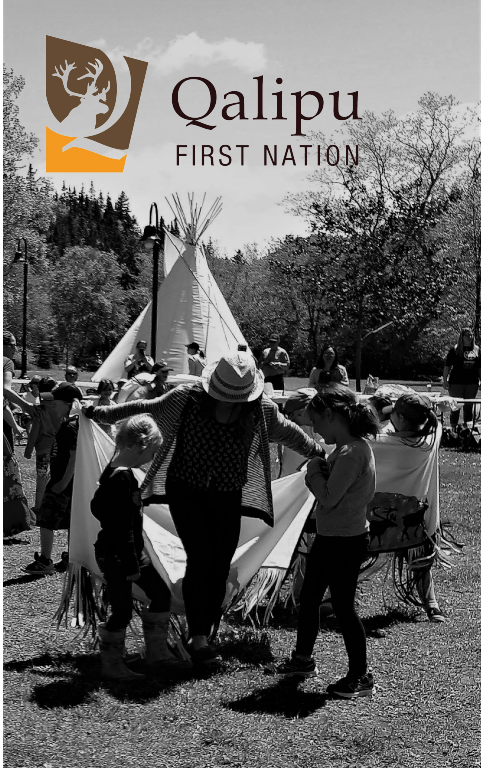
- Before taking “any significant measure” in relation to a child, service provider must notify child’s parent, care provider and Indigenous governing body.
- Personal information about the child, a member of the child’s family or care provider is not to be included in the notice other than as necessary to explain the proposed measure or as required by the Indigenous governing body’s Coordination Agreement.



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Representation

Section 13 – Representations & Party Status

- Child's parent and care provider have right to make representations and have party status.
- Indigenous governing body has a right to make representations.
- "Care provider" is defined as "having primary responsibility for providing the day-to-day care."



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Prevention

Section 14 – Priority to Prevention

- 14(1) Priority to be given to preventive care to support child's family where consistent with best interests of the child.
- 14(2) Priority to be given to prenatal care which is likely to be in the best interests of the child after birth, to prevent apprehension at birth.



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Social Economic Conditions

Section 15 – Socio-Economic Conditions

- Child must not be apprehended solely on the basis of socio-economic conditions to the extent it is consistent with the best interests of the child – including poverty, lack of adequate housing or infrastructure, or parent's state of health.
- This new rule supports the case for in-home support and addressing family / housing / caregiver conditions without apprehension.
- Service provider *must demonstrate* that it has *made reasonable efforts* to have a child continue with parent or other adult member of family before apprehending, unless immediate apprehension is consistent with best interests.



Placement Prioritises Section 16 – Placement prioritises

- Order for priority of placement to the extent consistent with best interests of the child:
 - Parents
 - Family
 - Same Indigenous community/group/people
 - Others
- Placement with or near siblings must be considered.
- Reassessment on an ongoing basis to see if child can be returned to parents or extended family.

Emotional Ties

Section 17 – Attachment & Emotional Ties

- If not placed with a family member, a child's attachment, and emotional ties to each member of his or her family **are to be promoted** where consistent with best interests. Creates a positive obligation.



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For More Information Contact:

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GLENWOOD OFFICE

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ST. GEORGE'S OFFICE

K'taqmkuk Mi'kmaw Museum - 183 Main Street, St. George's, NL A0N 1Z0

Mailing Address: P.O. Box 460 St. George's, NL A0N 1Z0

Internet Sites of Interest:

<https://laws.justice.gc.ca/eng/acts/F-11.73/index.html>

<https://www.sac-isc.gc.ca/eng/1579468554846/1579468577638>

<https://www.afn.ca/an-act-respecting-first-nations-inuit-and-metis-children-youth-and-families/>