

This is a confidential government document. The contents of this document shall not be disclosed to or referred to by any person other than appropriate parties to the Inquiry into the Treatment, Experiences and Outcomes of Innu in the Child Protection System.

MC2006-0222

HCS2006-018. SPC2006-026.

The Submission of the Minister of Health and Community Services respecting the Amendment to the Child, Youth and Family Services (CYFS) Act was considered.

Approval was given for the Minister of Health and Community Services to introduce in the House of Assembly the Bill entitled, "An Act to Amend the Child, Youth and Family Services Act," a copy of which is attached as Annex 1 of the Minister's Submission on file with the Clerk of the Executive Council.

HCS/DM
G. Cake
C. Lake
L. Galway
AG
Deputy Clerk
File

Clerk of the Executive Council

ADDENDUM TO HCS 2006-018

Regulatory Impact Analysis Checklist

Title of Legislation / Regulation Amendment to the *Child, Youth and Family Services (CYFS) Act*
If Regulation, Title of Authorizing legislation _____
Purpose of Proposal To permit Labrador/Grenfell Integrated Health Authority (L-GRIHA) to appoint a second director of CYFS for the Innu communities.

**This checklist must be accompanied by a
 Summary Report on Regulatory Impact Analysis**

Regulatory Criteria		Criteria Met	
		Yes	No
Cost-benefit analysis	Completed?	X	
	<i>Not required</i>		
	If not required, Impacts have been analyzed		
Competitive analysis		X	
Eliminate duplication or overlap with other jurisdictions		X	
Plain language		x	
Timeliness of regulatory response		X	
Transparent development of regulatory requirements		X	
Regulatory design is results-based		X	
Reverse onus- need for regulation is justified?		X	
Sunset Provisions:	Sunset review provision		X
	Sunset expiry provision		X
Removal : Replacement principle applied			X

Number of regulatory requirements to be added: 2
 Number of regulatory requirements to be eliminated: 0
Net Change: 2

 Responsible Minister or Head of Regulatory Authority

 Date

REGULATORY IMPACT ANALYSIS SUMMARY

COST-BENEFIT ANALYSIS

The addition of a Director of Child, Youth and Family Services for the Innu communities of the Labrador Grenfell Regional Integrated Health Authority (L-GRIHA) will benefit the Innu communities and the L-GRIHA through enabling a dedicated resource to address the very complex issues children and families are facing in those communities.

The only cost associated with this amendment is the salary and benefits for the additional director position. The L-GRIHA receives funding through a Bilateral Agreement between the province and the Department of Indian and Northern Affairs to support staffing costs. INAC has stated they will consider funding this position and this will be negotiated in the 2006/07 agreement. In the interim, the L-GRIHA is not seeking additional funds.

COMPETITIVE ANALYSIS

The provision of a Director of Child, Youth and Family Services for the Innu is comparable to other jurisdictions in Canada with Aboriginal Child Welfare Agencies. This request supports the direction of devolution of services and community capacity building.

HARMONIZATION WITH OTHER JURISDICTIONS

The *Child, Youth and Family Services Act* is a provincial statute. Policies and standards of practice are provincially developed. However, through forums such as the Federal/Provincial/Territorial Directors of Child Welfare Group and specific policy / research working groups commonalities in philosophy and practice are identified and implemented. Clearly, the empowerment of aboriginal communities to affect change and have input into matters related to Child, Youth and Family Services is a national trend.

PLAIN LANGUAGE

The language is consistent with the language of the CYFS Act. The amendment was developed on the advice of legal counsel with the Department of Justice.

TIMELINESS OF REGULATORY RESPONSE

As a result of their unique social issues, the Innu communities are struggling to ensure the safety of their children. This amendment to allow the Innu to have a director of Child, Youth and Family Services is critical to capacity building in the Innu communities and ultimately to the safety, health and well-being of the children, youth and their families. This amendment is supported by the Department of HCS, the L-GRIHA, the Innu leadership and the communities. The decision to take this action now is timely as a qualified person acceptable to all partners in this endeavour is available.

TRANSPARENT DEVELOPMENT OF REGULATORY REQUIREMENTS

There was an MC to create a provincial Innu Board as an interim to full devolution. The addition of a director for the Innu will allow for capacity building. The Innu are very supportive of this initiative as is the L-GRIHA. Additionally, this position has been put in place as a pilot project and is very supported by the community.

RESULTS-BASED REGULATORY DESIGN

This initiative began as a pilot project. A director of Child, Youth and Family Services for the Innu was developed to work within the Innu communities. As a result of positive feedback from the communities, and the L-GRIHA this request for amendment to the CYFS Act is being requested.

REVERSE ONUS-NEED FOR REGULATION

There has been significant documentation on the crisis in the Innu communities. The safety of children has been well documented and reported ie the Grace Hospital. The need for a different response has frequently been asserted by the Innu. Capacity building is an area of interest for the Innu. The L-GRIHA supports this need. They have not been successful in recruiting someone willing to maintain the director responsibilities under the CYFS Act for the Innu communities and the rest of the region. This amendment is the only viable response to securing the safety, health and well-being of children under the CYFS Act.

SUNSET PROVISIONS

The sunset provision does not apply to this amendment as this is part of an existing statute – the *Child, Youth and Family Services Act*. The CYFS Act will not sunset. There are legislated review mechanisms within the Act.

REMOVAL : REPLACEMENT PRINCIPLE

This amendment will increase the regulatory count by a total of 2 (internal). Reductions in the total regulatory count for the Dept. of HCS have been identified in the RTR 3 year plan.

CONFIDENTIAL**HCS2006-018****MEMORANDUM TO EXECUTIVE COUNCIL**

Title Amendment to the *Child, Youth and Family Services (CYFS) Act*

ISSUE Whether to introduce an amendment to the *CYFS Act* into the House of Assembly to provide for the appointment of a second director of CYFS in the Labrador/Grenfell Regional Integrated Health Authority for Innu communities.

RECOMMENDATION

It is recommended that the Bill entitled *An Act to Amend the Child Youth and Family Services Act*, a copy of which is on file with the Clerk of the Executive Council and attached as Annex 1, be introduced into the House of Assembly.

BACKGROUND

The *CYFS Act*, Section 4(1), provides for the appointment of a director of CYFS by each board (now regional integrated health authority). The legislation mandates a director to oversee the operation of the Act in the region, including the investigation of child maltreatment, the removal of children in need of protective intervention from their parents, application to the court for custody of these children, and approval of placements for and supervision of children placed in their care and custody. The director may enter into voluntary agreements with youth, age 16-18 years, deemed to be at risk, to provide services. Youth in custody of a director at age 16, may enter into a service agreement up to their 21st birthday. The Act also provides for the provision of services on a voluntary basis to children and families.

The Labrador/Grenfell Regional Integrated Health Authority (L-GRIHA) is responsible for the delivery of legislated CYFS programs in all Labrador communities, including the Innu communities of Sheshatshiu and Natuashish. Recruitment and retention of staff, housing for staff, cultural and social issues, and isolation, as well as a need for training, program development and collaboration with the community and federal partners provide unique challenges for the delivery of CYFS programs in the Innu communities.

The L-GRIHA has had difficulty recruiting a director of CYFS for the region due to the unique needs and challenges of working in the Innu communities. The L-GRIHA is seeking approval to appoint two directors of CYFS. It hired two directors, one for the two Innu communities and a second for the remaining communities for which it has responsibility in Labrador and the island portion of the province. There has been considerable attention focused on the care and protection of Innu children resulting from alcohol and solvent abuse, FASD, and child protection issues. Currently, approximately 170 children of the 600 in care in this province are aboriginal children from Labrador. The Director hired to work with the Innu communities

- 2 -

has lived in the Innu community of Sheshatshiu for over 20 years. She has a good understanding of the Innu culture and is accepted by the community. Both directors meet the qualifications for the position of director of CYFS. The Department of Justice advises that an amendment to Section 4(1) of the *CYFS Act* is required. The Act states that *each Board shall appoint a director of CYFS to exercise the powers and perform the duties given to a director under this Act*. Without the amendment, the L-GRIHA will not have the legal authority to have a second director position in place.

The Department of Health and Community Services supports the L-GRIHA's request to hire the second director. In addition to the recruitment issue, the need to enhance services for aboriginal children has been identified by the Child and Youth Advocate and in the Minister's Advisory Committee Report. The director of CYFS for the Innu communities will be able to focus on services to Innu children, youth and families. The director will work with the Department of Health and Community Services, community leaders and agencies, and federal partners to promote collaboration and co-operation to improve outcomes for Innu children and youth.

The Province, its federal partners, and the Innu, as part of reserve creation, have had discussions concerning devolution of responsibility for CYFS to the Innu. Having a director of CYFS for the Innu communities is a positive step to building capacity for devolution and improving services in the communities. The Innu and federal partners are supportive of this direction.

ALTERNATIVES

1. Introduce the Bill to amend the *CYFS Act* into the House of Assembly, permitting the appointment of a second director of CYFS in Labrador. This is the preferred option.

Advantages:

- Provides a director of CYFS to focus on the delivery of the CYFS program in accordance with provincial policy and standards in the Innu communities.
- Alleviates recruitment issues experienced by the L-GRIHA for the position of director of CYFS in the Labrador Region.
- Promotes the development of culturally appropriate services for children, youth and families in the Innu communities.
- Supports the building of partnerships with the Innu communities, agencies and service providers to better meet the needs of children, youth and families.
- Supports community capacity building as a step toward the devolution of responsibility for delivery of CYFS programs to the Innu communities.

- 3 -

Disadvantages:

- Other RIHAs may seek to appoint a second director. The Department supports this amendment for only the L-GRIHA because of the unique cultural and social issues and challenges in recruitment of a director.

2. To continue with one director of CYFS in the L-GRIHA. This is not the preferred alternative.

Advantages

- Consistent with the three other RIHAs in the province.

Disadvantages

- The Labrador/Grenfell RIHA will continue to experience recruitment problems for the position.
- The current model, which addresses recruitment and program delivery issues, will not continue.
- Opportunities for community collaboration and capacity building in the Innu communities will not be fully realized.

LEGISLATIVE/REGULATORY CONSIDERATIONS

The Bill entitled *An Act to Amend the Child Youth and Family Services Act* was drafted by the Office of the Legislative Council in consultation with Civil Division of the Department of Justice and the Department of Health and Community Services.

FINANCIAL CONSIDERATIONS

The addition of a second director will involve additional salary and benefits. The L-GRIHA receives funding through a Bilateral Agreement between the Province of Newfoundland and Labrador and the Department of Indian and Northern Affairs to support these costs.

RED TAPE REDUCTION

The amendment requires a new subsection in Section 4 of the *CYFS Act* and increases the regulatory count by 2 (internal). However, the addition of this subsection is significant for the provision of child youth and family services to residents in the north. The L-GRIHA has requested this amendment to effectively carry out the responsibilities delegated to the Authority under the *CYFS Act* for the care and protection of children, specifically in Innu communities. Given the insignificant increases in regulatory count, the social policy significance respecting services to children and youth and the urgency to place this item on the spring agenda of the

- 4 -

House of Assembly, a regulatory impact analysis was not developed to accompany this submission.

INTERDEPARTMENTAL CONSIDERATIONS

The Department of Justice advises that this amendment is necessary to have one additional director in the region for CYFS. Justice also advises that there are no legal issues with the draft Bill.

LABRADOR OR ABORIGINAL CONSIDERATIONS

This amendment will enable the L-GRIHA to enhance and improve the services currently available to aboriginal children, youth and families in Labrador. This direction is acknowledged as a positive step by aboriginal leadership in recognizing the cultural and social issues associated with the design and delivery of services in these communities. The amendment is supported by the Department of Labrador and Aboriginal Affairs.

INTERGOVERNMENTAL CONSIDERATIONS

The Department of Labrador and Aboriginal Affairs, the Department of Health and Community Services and the L-GRIHA have been involved with Health Canada and the Department of Indian and Northern Affairs in working with the Innu to improve services in the communities. The appointment of a director of CYFS for the Innu Communities is supported as a positive step in improving services and building capacity in the communities.

OTHER JURISDICTIONS

Other jurisdictions have aboriginal agencies that provide service on reserve. There are on-going discussions about the devolution of services and capacity building to allow for similar arrangements with Innu Communities in Labrador.

OTHER CONSULTATIONS

The Department of Labrador and Aboriginal Affairs and the federal Department of Indian and Northern Affairs have also been involved in discussions with the Innu concerning devolution of responsibility for CYFS programs to the communities. All parties support the appointment of a director of CYFS for the Innu communities as a step in supporting the devolution process.

- 5 -

STRATEGIC ENVIRONMENTAL REVIEW

There are no specific environmental considerations requiring a strategic environmental review.

COMMUNICATIONS AND CONSULTATIONS SYNOPSIS

A communication synopsis is attached as Annex 2.

ANNEXES

1. *An Act to Amend the Child Youth and Family Services Act*
2. Communications Synopsis

TOM OSBOURNE
Minister

April 13, 2006

Communications Synopsis
Amendment to the *Child Youth and Family Services Act*

Consulted with: R. Coates L. Vivian-Book J. Abbott	Date Drafted: April 13, 2006	Anticipated Announcement: No announcement recommended at this time
--	--	---

Communications Objective:

- To inform stakeholders that the *Child, Youth and Family Services (CYFS) Act* has been amended to allow for the appointment of a second Director of CYFS in the Labrador-Grenfell region, to work specifically within the Innu communities.

Target Audiences

- Innu communities and leaders (Sheshatshiu and Natuahish)
- RIHAs
- Office of the Child and Youth Advocate
- Community groups and agencies (i.e. Foster Families Association)

Secondary

- Media
- MHAs
- Opposition

Anticipated Media Attention: Moderate. Given the coverage locally and nationally on Innu children, the media will likely focus on this.	Anticipated Reaction: Positive. A Director specifically for the Innu communities will enhance the CYFS services provided and allow direct and constant attention specifically for the families in those communities.
---	--

Possible Headlines:

Positive: Government amends legislation to allow for additional Director of Child, Youth and Family Services for Innu communities.

Negative: Poor state of Child, Youth and Family Services in Innu communities leads Government to add another director.

Messages

- Within the Innu communities in Newfoundland and Labrador, the need for child, youth and family services has increased.
- Section 4 of the *Child, Youth and Family Services (CYFS) Act* has been amended to allow for the appointment of a second Director of Child, Youth and Family Services to work specifically with Innu communities in Labrador, resulting in two Directors of CYFS in total for the Labrador Grenfell region.
- The position of the Director of CYFS will enhance the development of culturally appropriate services for children, youth and families within the Innu communities.

- This position will support the building of partnerships with the Innu communities, agencies and service providers to better meet the needs of children, youth and families.
- The additional Director position will also provide support and direction to an increased number of staff as a result of money allocated in Budget 2006.

Activities

- No communications activities recommended at this time.

Sustaining the message

- Media monitoring.
- Minister to respond to media inquiries as requested.