

Office of the Child and Youth Advocate

Submission to the Department of Families and Affordability regarding the Children, Youth and Families Act Review

July 2025



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Introduction

On June 6, 2025, the Department of Families and Affordability announced the review of the **Children, Youth and Families Act (CYFA)**, the legislation that “guides the delivery of child protection, in-care, and youth service programs throughout the province.”

Members of the public were invited to offer input through online questionnaires, consultation sessions and written submissions. Stakeholders like the Child and Youth Advocate were contacted directly and encouraged to provide feedback.

The Office of the Child and Youth Advocate is legislatively mandated by the **Child and Youth Advocate Act** to protect and advance the rights of children and youth in Newfoundland and Labrador. The Child and Youth Advocate is an independent statutory officer of the Legislature and carries significant authorities in this role. This Office provides public oversight of government programs and services to children and youth, and helps young people by independently standing up for their rights and interests in dealing with child serving systems. Specific functions include investigations and reviews, individual and systemic advocacy, and public education on children and youth human rights.

The Office of the Child and Youth Advocate (OCYA) welcomes this opportunity to help strengthen this important legislation. As an independent office representing children and youth in this province, it is our responsibility to ensure their views are heard and their rights are respected. This is a responsibility we take very seriously, given children and youth, particularly those under voting age, have limited opportunity to have their voices amplified.

Having the voice and input of young people in this legislative review is critical. We respectfully request representatives from the Department critically examine their dedicated efforts to meaningfully engage young people with lived experience. This review would be incomplete without incorporating the perspectives of youth.

Consistently, each year, the Department of Families and Affordability (FAMA) is the highest department or agency of focus in our contacts for advocacy. Sixty-five percent of the concerns brought forth to the OCYA for individual advocacy in the past fiscal year involved services delivered under the **CYFA**. In the 2024-25 fiscal year, the OCYA had 287 formal requests for advocacy services on behalf of the children and youth of this province. Of those 287 requests for advocacy, 218 were, at least in part, related to services provided by the Department of Children, Seniors and Social Development (now the Department of Families and Affordability). There were 195 requests for advocacy in the areas of child protection, in-care supports and youth services.

Children's Rights

The work of the OCYA is guided by the **United Nations Convention on the Rights of the Child (UNCRC)**, a comprehensive child rights framework that supports children's development and wellbeing. The four guiding principles of the UNCRC are (1) non-discrimination, (2) best interest of the child, (3) life, survival and development, and (4) participation.

The following Children's Rights under the **UNCRC** must be central to any discussion on child protection, in-care and youth services:

- Article 3 focuses on the best interest of the child.
- Article 4 dictates government's responsibility to protect children's rights.
- Article 9 stipulates that a child has a right to live with their family as long as it is safe.
- Article 19 references the right to protection from mistreatment of body and mind.
- Article 20 gives children who cannot live with their families the right to special care.
- Article 25 respects the right of children placed away from the families to have their circumstances regularly reviewed.
- Article 30 speaks to a young person's right to practice their culture.
- Article 39 involves help for physical and emotional recovery where there has been maltreatment.

The **CYFA** with its focus on the best interest of the child, must incorporate not only the spirit of the Convention but also the language of the **UNCRC** to ensure the rights of children are in the forefront of every decision made under this legislation.

Opportunities for Change

This review of the **Children, Youth and Families Act** focuses on the following five areas:

- Child welfare practice with Indigenous children, youth and families
- Permanency planning for children and youth in need of protection
- Improved outcomes for children and youth in care
- Youth transitioning to adulthood
- Information sharing

The OCYA is pleased to provide input on these important topics. We also welcome an opportunity to highlight the need for further improvements to the legislation pertaining to:

- Language
- The right to safety for all children and youth
- Early intervention/prevention.

Our suggestions for change come directly from our individual and systemic advocacy, investigations, and public consultations, all of which include the voices of young people. These suggestions are also supported by research into best practices.

Language

Rights Based Language

As stated previously, the language of the **UNCRC** must be incorporated into the language of the **CYFA**. Ontario, Quebec, Yukon, Nunavut and Northwest Territories all reference the **UNCRC** in their respective child protection legislation, however, there is no reference to the **UNCRC** in the **CYFA**. At present, the only mention of children's rights in this legislation are in respect to inheritance or succession to property and a child's right to information. Otherwise, the rights and responsibilities defined are those of a parent, manager, foster parent or kin in respect to a child or youth.

The **UNCRC** must be integrated into legislation to ensure that children's rights are protected and enforceable.

Gender Neutral Language

Pronouns such as his/hers are used when referencing children, youth, parents and professionals in the **CYFA**. These terms are not inclusive to all gender identities and must be changed when the legislation is updated. A gender-inclusive approach to legislative drafting is consistent with the values of equality recognized in the **Canadian Charter of Rights and Freedoms**, as well as with government policies that seek to promote gender equality (Government of Canada, 2022.)

Right to Safety for All Children and Youth

Article 19 of the **UNCRC** focuses on protecting children from all forms of violence, abuse, and neglect. The purpose of the **CYFA** is to ensure this right is protected for those 16 years of age or younger; however, all rights under the Convention apply equally to all children and youth up to 18 years of age. A youth between 16 to 18 years of age can only receive protection and in care services if the youth cannot protect themselves “due to a lack of mental capacity.” Otherwise, the youth can enter into a youth services agreement which requires a level of independence and understanding not typically expected of youth that age. Youth up to 18 years of age should have the option of full protection under the legislation.

Prevention/Early Intervention

When a child’s physical, psychological or intellectual development is affected by the action or inaction of a parent, the **CYFA** and its accompanying policies and frameworks are engaged. The best interest principle; however, is not contingent on the parent(s)’s actions. Factors largely beyond a parent’s control, such as genetics, poverty, housing conditions, stress, family illness and peer relationships, can also impact a child’s well-being (National Research Council Institute of Medicine (US), 2004.) When parents are unable to ensure children have access to all services they have a right to receive, the government has an obligation to fill this void.

Poverty Reduction strategies can be beneficial to specific populations but they cannot replace early intervention and prevention programs that are individualized to meet the specific needs of children and their families. Effective early intervention would not target existing child protection clients and would require policies separate from those used for child protection and in care programs. Family preservation support, assistance with childhood behaviours, counselling and parenting support and education are some examples of preventative services that have the potential to prevent and mitigate problems from occurring, or to deal with them before problems get worse. A focus on early identification and intervention for families, and the overall wellness of families must be part of this review.

The benefits of early intervention are not only social but cost effective (Rand Health Quarterly, 2018) as they can reduce the need for more intrusive measures such as removal. According to Finance Minister Siobhan Coady "The costs of children in care are skyrocketing (CBC, 2025)." This is a vulnerable population with very high needs.

Child Welfare Practice with Indigenous Children, Youth and Families

According to the most recent “Report on Child Welfare Services to Indigenous Children, Youth and Families, 2021-22 (Government of Newfoundland and Labrador, CSSD, 2022b)” Indigenous children and youth continue to be overrepresented in care. While some are placed in their home communities, others are in placements outside of their communities and culture.

In 2019, the OCYA released “**A Long Wait for Change: Independent Review of Child Protection Services to Inuit Children in Newfoundland and Labrador.**” In our discussions, young people in care told us how much they miss their homes and culture. Cultural Connection Plans have been developed, in collaboration with Indigenous Governments and Organizations, as part of government’s commitment to improve services for Indigenous children, youth and families and to preserve the Indigenous child’s or Indigenous youth’s cultural identity. This commitment would be strengthened by establishing parameters around cultural connection plans in legislation, in addition to policy, such as who participates and time limits that continue after all court proceedings have concluded.

Improved Outcomes for Children and Youth in Care

The **2018 Vital Signs Report** revealed that only 23% of children in care in this province will graduate high school. Among homeless youth, 77% had been under Child Protection Services, a glaring reality (Community Foundation of Newfoundland and Labrador and Memorial University’s Harris Centre, 2018).

The issues related to aging out of care are not unique to this province. Research highlights that over 40% of youth experiencing homelessness in Canada were involved with child welfare services, including foster care and group homes. “For many young people the transition from child welfare is not to self-sufficiency, but rather to homelessness (Gaetz, 2014).”

When a child or youth is in care, the Child, Youth and Family division of FAMA performs the role of parent or guardian. Those performing the duties under the **CYFA** are responsible for the young person’s safety as well as all other areas of their upbringing including their educational needs. There needs to be increased emphasis on school attendance, goal setting, academic assessment and post-secondary supports to improve outcomes for children and youth in care.

Also, to that end, we must create better conditions for children and youth while they are in care. We continue to hear from youth and professionals that young people do not feel safe in some staffed placements, often due to issues with other residents. In some cases, the young person felt more at risk in the out-of-home placement than they did in their family home. To safeguard young people from further unnecessary trauma, legislation must be updated to proactively engage youth in the residential placement review process and to ensure greater compliance to regulations already in place.

Permanency Planning for Children and Youth in Need of Protection

When a young person enters an out-of-home placement, whether it be in a kinship arrangement with extended family or in care of the province, the goal is to have the children or youth return to their parents. Unfortunately, this is not always possible. In those cases, government has a responsibility to provide a safe, legally recognized, permanent family meant to last a lifetime (Government of Newfoundland and Labrador, FAMA, 2025b.)

When a child cannot safely live with their parents, an out-of-home placement with extended family members is preferable to foster or residential care. Family and cultural connections are maintained and the child likely already has a relationship with this person(s), minimizing the trauma of separation (O'Brien, 2012). This arrangement allows for physical, cultural and relational permanence, 3 of the 4 dimensions of permanency identified by FAMA; however, there is limited opportunity for legal permanency. While kinship providers are encouraged to seek custody, it is left to the family member to initiate custody proceedings and incur court costs. Those who feel unequipped to do so, financially or otherwise, can opt for a long-term kinship. There is no legal permanency to this plan. The child remains in the custody of the parent who can revoke consent at any time. Legal support for long-term kinships is required to provide these children with the security of a permanent home.

Those children who cannot safely remain with family, are placed in care. As previously stated, the outcomes for youth who age out of care are often quite poor. That is why permanency planning is vital – so the young person becomes part of a family rather than “aging out.” There are timelines in place so children can go from temporary to continuous care and therefore be eligible for adoption. Time limits range from 9 to 18 months depending on the age of the child or youth and whether the parent has demonstrated that he or she may be able to resume the custody of the child within a reasonable period. Stricter adherence to the guidelines already in place would decrease the amount of time before the child is eligible for a transfer of custody or adoption. Under Section 34 (2) of the **CYFA**, time limits can be suspended. This should be revisited in the interest of permanency.

Of course, the move from temporary to continuous care is only one step to obtaining permanency. As stated in our July 10, 2025, News Release, the OCYA is very concerned by statistics provided to Court for the timeframe of March 31, 2018, to March 31, 2024, showing that over 500 children and youth were in continuous care each year, yet only 190 adoptions have been finalized in the same timeframe. The Department of Families and Affordability has received notification of the OCYA's intention to examine current strategies for permanency planning.

Youth Transition to Adulthood

Youth in need of protective intervention or transitioning from the in care program are eligible for residential or supportive services from the Youth Services Program. Supportive services are intended to maintain a youth in their family home. Very few youth and their families benefit from these supportive services. The most recent program statistics available to the public show that, as of March 31, 2022, only 27 youth province-wide were in receipt of non-residential Youth Services (Government of Newfoundland and Labrador, CSSD, 2022a.) To ensure this program is meeting the needs of youth in this province; legislation and policy must be updated so that the criteria of this service, and the role of the social worker in non-residential services is clearly defined.

Residential Services involves providing residential, financial, and supportive services to youth who can no longer live at home. Youth who transitioned from the in care program automatically qualify for residential services. Youth who were asked to leave the family home or are at risk of maltreatment are assessed for eligibility. Youth have informed us that they have been denied services because their parent's account of what had occurred did not align with the information the youth provided. The youth who contacted us said they felt their parent's word held more weight than theirs. They felt their voices were not heard.

For those youth who are eligible for services, those services can be discontinued when a youth is consistently not fulfilling the goals outlined in the Youth Services Plan. In recent years, policy has been updated to include factors that must be considered as part of the decision to cancel residential service such as trauma history, life circumstances and physical, emotional or developmental issues. Given the criteria for receiving Youth Services, all youth would likely fit into one or more of these circumstances, rendering the practice of discontinuing services due to unmet goals obsolete. For many of these youth their goal is survival.

Ensuring youth have their physical needs met is vital to success. Youth cannot begin to focus on education and the future if they do not have a place to live. A study conducted jointly by the Municipalities of Newfoundland and Labrador and Choices for Youth highlighted difficulties with housing affordability as well as a lack of vacant rental housing. There is a housing crisis and youth are amongst the most vulnerable (CFY, 2024.) Youth are living in unsafe situations. Funding provided for housing under the Youth Services Program is not sufficient to ensure appropriate living conditions. The funding amount provided for board and lodging or shared accommodations is up to \$500 monthly, unchanged from over a decade ago. Investing in this population means increasing funding and assisting in finding appropriate housing for those who need it.

Under the current legislation, youth can access residential services up to the age of 21. A transition age of 26 would align with what we know about adolescent brain development, as referenced in the review discussion guide, and would be more in-keeping with the current reality for young people across Canada. In 2021, more than one in three (35%) young adults aged 20 to 34 lived in the same household as at least one of their parents (Government of Canada, 2021.) Youth who cannot live with their parents deserve the same opportunity to transition at a pace that works for them.

Information Sharing

Those professionals performing duties under the authority of **CYFA** work closely with professionals from other government departments. The sharing of information in child protection investigations and in case planning is essential and legally authorized when working in a child's best interest. Despite this, stakeholders regularly cite issues with privacy as a barrier to working together for effective service delivery. Increased collaboration is a recommendation in several OCYA reports. While this may be happening at the department level, there is no evidence collaboration has improved at the front-line service delivery level. Legislation and policy must be updated to ensure staff are sharing information in a manner that is consistent with Section 68 of the **Access to Information and Protection of Privacy Act, 2015**.

Conclusion

As stated in the OCYA's June 17, 2025, press release, the **Children, Youth and Families Act** is a critical piece of legislation for children and youth in this province. This review is an excellent opportunity for meaningful changes such as those listed below:

1. Incorporate the language of the **United Nations Convention on the Rights of the Child** throughout the legislation.
2. Update legislation to include gender neutral language.
3. Raise the child protection age to 18.
4. Include early intervention and prevention in the **CYFA**, as this is critically important to positive outcomes for children, youth and families.
5. Legislate parameters around cultural connection plans.
6. Increase emphasis on education and goal setting for all children in care.
7. Proactively engage youth in the residential placement review process.
8. Update legislation to ensure greater compliance with residential placement regulations already in place.
9. Include legal permanency for children and youth in kinship arrangements in legislation.
10. Ensure stricter adherence to court proceeding timelines already in legislation.
11. Clearly define non-residential youth services.
12. Ensure that youth are heard when determining eligibility for youth services.
13. Discontinue the practice of cancelling youth services due to non-adherence to plan.
14. Provide appropriate funding and support for safe housing.
15. Raise the age of eligibility for youth services to 26.
16. Ensure staff are sharing information in a manner that is consistent with Section 68 of the **Access to Information and Protection of Privacy Act, 2015**.

We believe these changes will strengthen the existing legislation by ensuring children's rights are at the forefront as decisions are made in the areas of early intervention and prevention, child protection, in care supports and youth services. We look forward to learning more about steps taken to have youth heard as part of the legislation review process.

Finally, the Office of the Child and Youth Advocate would suggest a Child Rights Impact Assessment be applied to the legislative review process and subsequent changes being considered. A Child Rights Impact Assessment (CRIA) is a tool for translating the **UNCRC** (discussed above) and the child and youth's best interests into policy and practice.

According to *Child Rights Impact Assessment: A Primer for the Yukon* (Yukon Child and Youth Advocate, 2020.), CRIA is not a separate process, but rather an analytical tool to use during different steps of the legislative and policy development process.

Other provinces and territories such as Prince Edward Island and the Yukon have utilized the CRIA tool in their jurisdictions for similar legislative reviews, so there are examples and trainings available to guide this work. Our counterparts in the Canadian Council of Child and Youth Advocates have referenced this work in their jurisdictions. In July 2023, Justice Canada launched the Child Rights Impact Assessment tool and e-learning course to assist public officials in considering the impacts of a new law, policy, program or other initiative on children. While primarily aimed at federal officials, Justice Canada asserts that this tool can equally be used by other governmental or non-governmental organizations, or by others who want to assess the impact of an initiative on children's rights.

The Office of the Child and Youth Advocate believes the legislative review would be remiss if it did not consider the CRIA process. This process would ensure the review process and legislation reflects the needs and rights of children and youth in the province, as well as the impacts changes would have for them.

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