



COWICHAN TRIBES
Child and Family Wellness
Legislation Project

FAQ Frequently Asked Questions

(Nov. 15, 2023 version)

To learn more please visit: <https://ourchildlaw.cowichantribes.com/>

About the Project & Law

1. What does ratification mean?

Ratifying our Law means formally approving and accepting our Law as valid and binding. It involves going through a voting process to make our Law official and legally enforceable by Cowichan Tribes. It's the step that confirms that our proposed Law is approved.

2. How was our Law developed and has the community been involved?

Residential Schools and the Indian Act forcefully removed Cowichan Tribes children from our families, but our Nation never gave up our inherent right to govern our families.

In 1976, the first Cowichan Tribes social worker was hired. In 1996 Cowichan Tribes assumed full delegated authority over child and family services. In 1999 Chief and Council began to intentionally advance the process of reclaiming our inherent right to lead our own child and family services with our own Law focused on prevention and culture.

Between 2010 and 2020 Cowichan Tribes held several community engagement sessions where members expressed their wishes for culturally relevant child and family services. In late 2020, our Nation provided notice to the federal and provincial governments of our intent to exercise jurisdiction over children and family services under C-92 (*An Act Respecting First Nations, Inuit and Métis Children, Youth and Families*).

Since then, a project team from Cowichan Tribes and five sub-committees with membership consisting of Elders, community, youth and technical experts have been working on our Law. To ensure transparency and ongoing communications, the project team has been meeting with community regularly to develop our Law and service model. You can visit the project website [history](#) and [news](#) section to learn more.

3. What is the difference between our Cowichan Tribes Law and the current provincial law?

Our Child & Family Wellness Legislation (Law) will ensure our child and family services are fully governed by Cowichan Tribes. We will no longer fall under the authority of the province.

Current provincial Laws and policies are not aligned with our culture and values. Our Cowichan Law and principles are grounded in our snuw'uy'ulh (teachings) and the belief that Cowichan families should have the supports needed to stay together and the right to guide decisions that impact them. We want to end the practice of children being removed from our community.



Our child & family services agency will provide services under Chief & Council and an authority with a CEO and Board of Directors, with a prevention-based approach to promote stronger, healthier, and more resilient families.

4. Will the Law apply to all Cowichan Tribes citizens, including off-reserve?

Yes. While jurisdiction will apply across Canada, the service delivery area will initially include Vancouver Island and the Gulf Islands. We will expand this in the future as we build our capacity. All Cowichan Tribes citizens entitled to be registered under our Citizenship Code will be able to access supports for prevention/support services.

5. Why is the Law written in legal language?

In many ways our Law is very different from colonial laws because it is grounded in our Quw'utsun snuw'uy'ulh and expresses the deep love we have for our Smun'eem and culture.

Because the law will be used by judges, lawyers and police when necessary, it has to be written using some legal language. We don't want our law to be challenged in court for being unconstitutional. We understand this way of writing can be difficult to understand and the project team will create materials and documents – like this FAQ and the visual Law overview to help explain more easily what our Law means.

6. Will policies be able to be reviewed before we vote?

A lot of content normally considered 'policy' was included in our Law. More specific service-delivery policies will be drafted after the Law is approved to ensure they support our Law. The Board and CEO will also have an important role to play in this process. The policies, like our Law, will be grounded in our Quw'utsun Snuw'uy'ulh and focus on keeping Smun'eem (children) in community with their families. Our Law will also guide the development of our regulations.

7. Who will govern our Law?

A Child and Family Services Authority *Stsi'elh stuhw'ew't-hw tun Smun'eem [Honouring Our Sacred Children and Families]* with a Board of five to nine directors will be appointed to oversee our Child and Family Services. The Board will primarily consist of Cowichan Tribes members, with at least one Elder, Youth member, a fluent Hul'q'umi'num speaker, and consideration for gender balance and diversity. The Board will exclude members of Cowichan Tribes Council or employees of the Child and Family Service agency.

The Board of Directors will appoint a CEO for the management of the Authority and implementation of our Law. The CEO will report to the Board of Directors regularly, providing updates on operations and an annual report to the Council. Cowichan Tribes Council will have responsibilities to support the authority and make regulations and ensure it is functioning properly but will not be involved in day-to-day operations or case decisions.



8. When will our Law be implemented? Will this take forever to be implemented?

Provided there is a successful vote in November 2023, Cowichan Tribes will begin implementing our Law in 2024 following a Band Council Resolution, using a phased-in approach over a two-year period, at which point the *Stsi'elh stuhw'ew't-hw tun Smun'eem* (Child and Family Services Authority) will go into operation. We will continue to prioritize the return of Cowichan smun'eem to their families and keep citizens updated about our progress to implement our Law. Since October 2021 our Child and Family Services agency has supported the return of over 35 smun'eem to their families.

Dispute Resolution

9. What if a dispute needs to go to court? Will we have our own court?

During a transition period we will use the existing Provincial court until we establish our own dispute resolution system. In the interim, the Provincial court will be held on reserve as most proceedings will be family case conferences. Elders will be present and dispute resolution will be collaborative. Families will still have the right to go to a full provincial court hearing (trial) if they choose.

Governance & Chief and Council

10. How do we ensure the governing bodies are ready for the responsibility this law entails?

The Law has many layers of accountability and clearly defines roles and responsibility of the governing body. Policies and regulations, as well as training and a CEO for our authority, will ensure decision-makers are well prepared for their responsibilities. Elders will be involved in decisions and funding will be available for ongoing support such as legal and financial counsel.

11. Can the Law be Changed by a new Chief & Council?

No. Our Law is a Cowichan Law which requires community vote. A future Chief & Council cannot end our Law nor amend it without proper processes involving community.

Funding

12. Who will pay for this? Will there be less funding?

Cowichan Tribes will continue to be fully funded via agreements with the province and federal governments to deliver our services. We will receive additional funding for new services and other prevention services on an ongoing basis, including for youth cultural programs, mental health and addictions treatment, and more. This will come in the form of block funding, which will require our Nation to determine how funds are allocated.



13. Will Cowichan Citizens be able to access other funding including from the Canadian Human Rights Tribunal Ruling?

Cowichan Smun'eem and families will continue to be able to access existing provincial and federal programs, funding and services including those resulting from the Canadian Human Rights Tribunal ruling that found Canada discriminated against First Nations Children in care and failed to implement Jordan's Principles. We will ensure this is captured in writing as part of our final agreement for jurisdiction of our Child and Family Services.

Adoptions

14. How will you handle adoptions?

Our Law doesn't have permanent custody orders and a parent will never lose their parental rights. A child will only be separated from their parent if we've tried everything else and there's clear evidence of harm or neglect, in which case they will be placed with a family member whenever possible. It is our mandate to continue to involve family in working for reunification. We will have a fair review process for families regarding decisions made affecting them.

Blended Families

15. What if one of the parents is a member of another Nation or is non-Indigenous?

When a family is connected to multiple Indigenous Nations, each with its own child and family services law, Cowichan Tribes will have discussions with those Nations to decide which law, or specific parts of it, should be used for that family's situation. If the other Nation does not have a law, our law will guide the process.

16. Will the Law apply to a non-Cowichan child with a parent that is a Cowichan Citizen?

If the child is entitled to be registered Cowichan, they may be eligible for programs and services under our Law. For those who remain unregistered and are closely connected to our families, we will work with other agencies to support the child and family.

17. What happens to the rights of a non-Cowichan caregiver under this law?

Our agency will recognize the caregiver's importance in the children's lives. Our policies will address guidelines specific to this kind of situation, which will be guided by the principles of our Law. We will work with caregivers to ensure they value the cultural heritage of Cowichan Smun'eem and provide them with opportunities for our Smun'eem to learn their language, culture and identity.



Service Delivery

18. Who will be the agency in charge of Child & Family Services?

Lalum'utul' Smun'eem will stop being a delegated agency under provincial law and become a Cowichan Tribes' Child and Family Service Agency under Cowichan law. The Agency will report to an Authority with a CEO and an Independent Board primarily made up of Cowichan citizens.

19. Will services be available for all Community citizens?

Yes, the new service model is based on prevention. We want to build support for all families. Families will be able to access many support services without having an open child or family service file.

20. What support will be available for citizens off-reserve?

Our services will begin by serving families on Vancouver Island and the Gulf Islands. If you live outside this area, the regular provincial child and family services Law will apply until we expand our service delivery area. We'll work with the Ministry of Children and Family Development to ensure our Nation is involved in child and family matters handled by other agencies and our guiding values and principles are considered.

21. Where do Trauma-informed Practices come in?

Trauma-informed practices are crucial to our success. We will collaborate with other agencies to help us provide the very best services and our funding agreement will include funding for healing programs and trauma informed training for staff.

Youth

22. Is there anything in the law that pertains to youth?

Yes. Youth support services will be available until the age of 27 and includes cultural programs, safe housing, and funding to support a permanent youth centre. Post-majority services will help young adults transition to adulthood with a focus on housing, education, employment, mental health, addiction, and healthy relationships.

23. Will there be places that kids can go for support?

Our capital proposal includes funding for a youth centre and safe house, and with feedback from the community we can create programs that support spaces where kids feel safe to come to and get support. It is important to remember that we all carry the responsibility to support our children and youth. We need to be available to them as role models and mentors.



Housing

24. How are we able to look after our children if we don't have homes?

Housing is a huge issue in our community. While current governments are not adequately supporting Indigenous communities with housing, when we have our own Law, we will look for innovative solutions and work with other Cowichan Tribes' departments to create more housing solutions for our vulnerable families and youth. Our capital infrastructure ask includes funding for supportive housing.

Staffing

25. You wish to grow your staff a lot, but do you have a recruitment or retention plan?

Our priority is to hire as many qualified Cowichan Citizens as possible and provide training for these positions. And also, to retain our current child and family workers, we're reducing caseloads to around 10 from 20 to improve their working experience.

Many of the new staff will concentrate on prevention and supporting families before they reach crisis points. We're also exploring creative ways to attract and retain dedicated workers who are excited to join us because we approach things differently, embracing a cultural and holistic perspective rather than the colonial way.

26. How will you support workers to protect them from burnout?

We have an Employee Assistance Program (EAP) in place to support our workers, and we're also actively exploring ways to enhance their well-being. This includes connecting our staff with Elders, improving self-care practices, and considering talking circles for debriefing, with valuable guidance from Elders, who offer support and mentorship to our staff and family meetings.

How things will be different

27. What would be different with our Own Law and Child and Family Authority?

Some of the information below can also be reviewed in this ["How things will be different" brochure](#) which also includes our Future Service Deliver model.

Self-Governing Nation: Currently, the Provincial Director of Child Welfare of the Ministry Children and Family Development (MCFD) and provincial laws have the final say on how we govern our services. With our own Law and jurisdiction, it will be our Nation and Child and Family Services Authority that makes decisions for our own smun'eem (children) and families.

Policies and Standards: Under our Law, our Nation will be able to develop its own policies and standards based on community needs, culture, and teachings. Currently, we must adhere to provincial and federal government policies, which are not culturally relevant and often not in the best interest of our smun'eem (children) and families.



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Cultural Alignment: Our service and practice standards will align with our *Snuw'uy'ulh* and culture. Current practices, based on colonial polices and regulation, often conflict with our cultural norms.

Staff Training: Staff will be hired and trained to provide holistic, family-centred services based on our Law's cultural principles and standards. We will also have more staff to support our families.

Funding for Prevention: Our Law is based on prevention and additional funding will be available for prevention and cultural program for all families and youth.

Post Majority Supports: Rather than 'ageing out' at 19 years of age, youth formerly in care will be eligible to receive supports until the age of 27 to support their transition to adulthood.

Collaborative Decision Making: Our Laws allow for more input from Elders, grandparents, family and extended family, whereas current colonial systems limit their full inclusion.

Child Removal Decisions: Removing children will be an absolute last resort and overseen by a CEO and Quw'utsun Board and our agency, as opposed to being governed by provincial legislation and policy. Parents will never lose their right to have their children returned to them and active efforts will be made to return them as soon as possible. Since fall 2021 our agency (Lalum'utul' Smun'eem) has not been involved in a single child removal and has actively supported the return of over 35 children in foster care to their families.

Dispute Resolution: Disagreements will aim to be resolved with Nuts'a'maat Shqwaluwun and a conflict resolution mindset involving traditional practices for resolving disagreements, which seek to honour and repair relationships. A Cowichan alternative to courts process may be established. The Law includes several opportunities for citizens to review decisions to ensure they are made in the best interest of smun'eem and community.