

# Mihtatakaw Sîpiy Awasak Wiyasiwêwin

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1. CITATION

This Act shall be cited as the “Mihtatakaw Sîpiy Awasak Wiyasiwêwin”.

2. INTERPRETATION AND DEFINITIONS

2.1. In this Act, unless the context otherwise requires:

- (a) the singular includes the plural, and the plural includes the singular;
- (b) a reference to one gender includes reference to other genders; and
- (c) “shall” and “must” are imperative.

2.2. In this Act,

- (a) “Act” means the Mihtatakaw Sîpiy Awasak Wiyasiwêwin;
- (b) “Approval Resolution” means a Resolution setting out the process by which the Members may approve the Act, including any amendments to the Act;
- (c) “Approved Kanawêyimâwasow” means a person approved to operate a Care Home;
- (d) “Board” or “Board of Governors” means the Board of Governors of the Kinosêw Awasak Mîkiwâhp appointed pursuant to section 5.7 of the Act;
- (e) “Care Home” means a place that provides contracted care to a Child in the Kanawêyim of the Nîkâni-kaskihcikêw or an authority responsible for the administration of child protection legislation in another province or territory of Canada and includes a secure home, a foster home and a group home, but does not include a facility that primarily provides medical care, educational services or correctional services;
- (f) “Charter of Rights and Freedoms” means Part 1 of *The Constitution Act, 1982*
- (g) “Child” means a person up to and including the age of 26 years:
  - (i) who is a Member, or is entitled to become a Member; or
  - (ii) to whom this Act applies pursuant to a Coordination Agreement;
- (h) “Child and Family Services” means social services to support Children and Families, including Prenatal Services, Preventive Services, and Child Protection Services;
- (i) “Child and Family Services Program” means the program set out in section 7;
- (j) “Child Protection Services” means any Service provided to a Child who is in the Kanawêyim of the Nîkâni-kaskihcikêw;

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- (k) “Coordination Agreement” means a coordination agreement as defined in the *An Act respecting First Nations, Inuit and Metis children, youth and families* SC 2019 Chap. 24;
- (l) “Chief and Council” means the duly elected Chief and Council of Driftpile Cree Nation;
- (m) “Court” includes any federal, provincial or indigenous administrative tribunal or court;
- (n) “Customary Care” means the care provided to a Child in accordance with section 7.6(j);
- (o) “Day” means a calendar day ending at midnight, Alberta time;
- (p) “Driftpile Cree Nation” or “DCN” means Driftpile Cree Nation #450;
- (q) “Enacting Resolution” means a Resolution enacting the Act;
- (r) “Family” means the following:
  - (i) certain kinship of the Child, namely the mother, father, siblings, grandparents, aunts and uncles, whether by blood, cultural adoption, or marriage; and
  - (ii) any person who, prior to the involvement of the Nîkâni-kaskihcikêw, assumed substantial responsibility for raising the Child;
- (s) “Governor” or “Governors” means any individual member or members of the Board;
- (t) “Indigenous Community” means an indigenous group, community or people that holds rights recognized and affirmed by section 35 of *The Constitution Act, 1982*;
- (u) “Kanawêyim” means keeping a Child, and includes custody and guardianship;
- (v) “Kanawêyimâwasow” means a person who has primary responsibility for providing the day-to-day care of a Child, other than the Child’s Parents, including persons who are Kanawêyimâwasows in accordance with the customs or traditions of DCN, but does not include an Approved Kanawêyimâwasow;
- (w) “Kinosêw Awasak Mîkiwâhp” means the child and family services organization established pursuant to this Act;
- (x) “Mediation” means alternative dispute resolution and includes talking circles, sharing circles and healing circles;
- (y) “Mediator” means a person appointed by the Miyo-Wîcêhtowin Onâtamâkêw to conduct Mediation.

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- (z) “Member” means any person whose name appears or is entitled to appear on the membership list of DCN;
- (aa) “Minor Parent” means a mother or father who is under the age of 18;
- (bb) “Miyo-Wîcêhtowin Onâtamâkêw” means the dispute resolution tribunal established in section 10;
- (cc) “Nîkâni-kaskihcikêw” means the person hired and designated by the Kinosêw Awasak Mîkiwâhp as a Director for the purposes of this Act;
- (dd) “Paminêw” means to remove a Child from the Kanawêyim of a person and place the Child in the Kanawêyim of the Nîkâni-kaskihcikêw;
- (ee) “Parent” means:
  - (i) the mother of a Child;
  - (ii) the father of a Child;
  - (iii) a person who, by Court order or agreement with the Parent, has Kanawêyim of the Child; and
  - (iv) a Kanawêyimâwasow, but does not include the Nîkâni-kaskihcikêw;
- (ff) “Peace Officer” means a member of a Police Service;
- (gg) “Participating Indigenous Community”, means an Indigenous Community who, by agreement with Driftpile Cree Nation, is receiving the Child and Family Services Program;
- (hh) “Police Service” means
  - (i) the Royal Canadian Mounted Police;
  - (ii) any provincial or municipal police service established by statute; or
  - (iii) a police service established by Resolution
- (ii) “Prenatal Services” means services provided to an expectant mother;
- (jj) “Preventive Services” means services offered to Children at risk of Child Protection Services and their Families in order to keep Children and Families together, and includes Customary Care, counselling, guidance, educational, recreational, wellbeing and customary shelter services, including related financial or material assistance, in order to aid in the resolution of family matters which if unresolved may create an environment requiring Child Protection Services, and as set out in section 7.6;
- (kk) “Reserve” means any tract or tracts of land set apart by Treaty or otherwise designated for the use and benefit of DCN and its Members;

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- (ll) “Resolution” means any duly passed DCN Band Chief and Council Resolution;
- (mm) “Services” includes financial assistance; and
- (nn) “Wiyasiwêwinihk” means by-laws governing the affairs of the Kinosêw Awasak Mîkiwâhp.

### 3. PURPOSE OF THE ACT

Whereas our children are our most precious resource, and the foundation of our future;

And whereas it is our duty to always act in their best interests;

Therefore the purposes of this Act are to:

- (a) affirm the jurisdiction and legislative authority of Driftpile Cree Nation over Child and Family Services for its Members;
- (b) establish the Kinosêw Awasak Mîkiwâhp to provide the Child and Family Services Program on behalf of DCN;
- (c) set out the principles applicable to the interpretation of this Act and the provision of the Child and Family Services Program;
- (d) outline the components of the Child and Family Services Program;
- (e) establish the Miyo-Wîcêhtowin Onâtamâkêw and set out its jurisdiction and powers over disputes regarding the operation of the Child and Family Services Program;
- (f) provide for the execution of any Coordination Agreements; and
- (g) other related purposes.

### 4. RIGHTS AND JURISDICTION OF DRIFTPILE CREE NATION

#### 4.1. Affirmation

The inherent right to self-government as exercised and affirmed by the United Nations Declaration on the Rights of Indigenous Peoples, and section 35 of the *Constitution Act, 1982* includes jurisdiction in relation to Child and Family Services, including legislative authority in relation to those services, and authority to administer and enforce laws made under DCN legislative authority.

#### 4.2. Dispute Resolution Mechanisms

For greater certainty and for the purposes of 4.1, the authority to administer and enforce laws includes the authority to provide for dispute resolution mechanisms.

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#### 4.3. Application of Charter of Rights and Freedoms

The Charter of Rights and Freedoms applies to Driftpile Cree Nation in the exercise of jurisdiction in relation to Child and Family Services on behalf of DCN.

#### 4.4. Scope

- (a) This Act and the Child and Family Services Program shall apply to all Members and their Children, whether they are residing on or off the Reserve.
- (b) This Act and the Child and Family Services Program may apply to other persons, pursuant to a Coordination Agreement.
- (c) This Act and the Child and Family Services Program may apply to a Participating Indigenous Community pursuant to an agreement with Driftpile Cree Nation.

### 5. KINOSÊW AWASAK MÎKIWÂHP

#### 5.1. Kinosêw Awasak Mîkiwâhp Established

- (a) An organization to be known as Kinosêw Awasak Mîkiwâhp is established consisting of the Board of Governors appointed pursuant to section 5.7.
- (b) The Kinosêw Awasak Mîkiwâhp has the capacity and, subject to this Act and any Resolutions, the rights, powers and privileges of a natural person.
- (c) The Kinosêw Awasak Mîkiwâhp shall engage employees for the purpose of carrying on the business of the Kinosêw Awasak Mîkiwâhp and may determine their conditions of service.
- (d) The Kinosêw Awasak Mîkiwâhp shall maintain its head office on the Reserve.
- (e) The fiscal year of the Kinosêw Awasak Mîkiwâhp shall run from April 1st of each year to March 31st of the following year.
- (f) Subject to this Act, Chief and Council may pass Resolutions:
  - (i) expanding or clarifying the powers, duties or functions to be exercised or performed by the Kinosêw Awasak Mîkiwâhp; or
  - (ii) imposing limits on the powers, duties or functions to be exercised or performed by the Kinosêw Awasak Mîkiwâhp.

#### 5.2. Kinosêw Awasak Mîkiwâhp Objects

- (a) To advocate for, develop and deliver the Child and Family Services Program, including Child and Family Services and approval of Care Homes for Children and Families both on and off the Reserve, in accordance with this Act, and in such a manner that is DCN specific, DCN determined and community-based;

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- (b) develop and deliver a Child and Family Services Program, including Child and Family Services and approval of Care homes, for persons who are resident on the Reserve but are not Members, in a manner that respects their familial, cultural, social and religious heritage and beliefs;
- (c) negotiate, enter into, administer and generally deal with agreements with the private sector affecting Children and Families, and with the approval of Chief and Council, with the various levels of government;
- (d) negotiate, enter into, administer and generally deal with agreements with the private sector affecting the children and families of persons who are not Members, and with the approval of Chief and Council, with the various levels of government;
- (e) act as the representative of DCN before the Miyo-Wîcêhtowin Onâtamâkêw, in the Courts, and with all levels of government for the review, advocacy, development and implementation of:
  - (i) this Act;
  - (ii) the calls to action of the Truth and Reconciliation Commission and Missing and Murdered Indigenous Women and Girls Commission;
  - (iii) the Articles of the United Nations Declaration of the Rights of Indigenous Peoples;
  - (iv) the existing and ongoing findings and orders of the Canadian Human Rights Tribunal in Decision 2016 CHRT2 and the findings and orders in all subsequent Canadian Human Rights Tribunal decisions related to indigenous children;
  - (v) Jordan's Principle; and
  - (vi) other entities as may be determined by Resolution;
- (f) liaise with non-indigenous, Metis and non-status indigenous people as individuals or groups to improve child and family programs and services;
- (g) acquire lands, by purchase or otherwise, and to erect or otherwise provide building or buildings for office, social, community and other purposes both on and off the Reserve;
- (h) provide all necessary equipment and furniture for carrying on its various objects;
- (i) accept gifts and raise funds by any lawful means, to achieve the objects of the Kinosêw Awasak Mîkiwâhp;
- (j) conduct these activities and achieve these objects on a not-for-profit basis;
- (k) do everything reasonably necessary, suitable, proper, convenient or incidental to these activities and objects; and

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- (l) nothing in these objects shall be construed so as to abrogate or derogate from the inherent rights, treaty rights and aboriginal rights of DCN.

### 5.3. Kinosêw Awasak Mîkiwâhp Funding

- (a) Chief and Council may, by Resolution, transfer money to the Kinosêw Awasak Mîkiwâhp for the purposes of the Kinosêw Awasak Mîkiwâhp objects.
- (b) The Kinosêw Awasak Mîkiwâhp may also receive funding directly from the federal government or provincial governments and any other agencies, entities or First Nations.

### 5.4. Borrowing and Guarantees

- (a) The Kinosêw Awasak Mîkiwâhp shall not borrow money except in accordance with a Resolution.
- (b) The Kinosêw Awasak Mîkiwâhp shall not give guarantees.

### 5.5. Indemnification

- (a) The Kinosêw Awasak Mîkiwâhp shall, subject to the terms of any Resolution, indemnify:
  - (i) a present or former Governor or officer of the Kinosêw Awasak Mîkiwâhp
  - (ii) a person who acts or has acted at the request of the Kinosêw Awasak Mîkiwâhp,
  - (iii) an employee or former employee of the Kinosêw Awasak Mîkiwâhp and
  - (iv) the heirs, estate and trustees of a person referred to in (i), (ii) or (iii),against costs, charges and expenses, including any amount paid to settle an action or satisfy a judgment, reasonably incurred by that person with respect to a civil, criminal or administrative action or proceeding to which that person is made a party by reason of holding such a position, if that person acted honestly, in good faith and with a view to the best interests of the Kinosêw Awasak Mîkiwâhp, and in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, if that person had reasonable grounds for believing that the conduct that is the subject of the action or proceeding was lawful.
- (b) The Kinosêw Awasak Mîkiwâhp shall not provide indemnities other than those:
  - (i) authorized by (a); or
  - (ii) provided in accordance with a Resolution.

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5.6. Nîkâni-kaskihcikêw

- (a) The Kinosêw Awasak Mîkiwâhp shall designate a qualified person to act as the Nîkâni-kaskihcikêw for the purposes of this Act.
- (b) The Nîkâni-kaskihcikêw may also act as the chief executive officer of the Kinosêw Awasak Mîkiwâhp, reporting to the Board of Governors.

5.7. Board of Governors

- (a) There shall be a Board of Governors consisting of up to 9 members appointed by Resolution.
- (b) The Board shall designate one of the Governors as the Chair.
- (c) The Board may determine the remuneration and other expenses payable to Governors.

5.8. Governor

- (b) A Governor holds office for a term fixed in the Resolution appointing the Governor, which term must not exceed 4 years.
- (c) A Governor shall not serve on the Board for more than 2 consecutive terms.
- (d) A Governor ceases to hold office when:
  - (i) the Governor resigns;
  - (ii) the Governor's appointment expires; or
  - (iii) the Governor's appointment is terminated by the Chief and Council by Resolution for cause.
- (d) If a Governor's appointment is terminated by Chief and Council, the Governor may, within 30 days, appeal the termination to the Miyo-Wîcêhtowin Onâtamâkêw and the Miyo-Wîcêhtowin Onâtamâkêw may confirm or reverse the termination.
- (e) A Governor's resignation becomes effective when it is received by the Chair, in writing, or at the time specified in the resignation, whichever is later.
- (f) The Chair shall send a copy of a resignation to the Chief and Council forthwith.
- (g) Notwithstanding (a) and (b), where a Governor's appointment expires, the Governor continues to hold office until:
  - (i) the Governor is reappointed; or
  - (ii) a successor is appointed, whichever occurs first.

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- (h) In determining the term of an appointment, the Chief and Council shall have regard to the desirability of having no more than 1/3 of the appointments expire in any one year.
- (i) In making an appointment, the Chief and Council shall have regard to the desirability of having a Board that consists of individuals who, in the aggregate, have the full range of skills, knowledge and experience necessary to effectively lead the Kinosêw Awasak Mîkiwâhp in achieving its objectives.

#### 5.9. Board Powers

The Board shall supervise the management of the business and affairs of the Kinosêw Awasak Mîkiwâhp.

#### 5.10. Wiyasiwêwinihk

- (a) The Board may make Wiyasiwêwinihk to govern:
  - (i) the business and affairs of the Kinosêw Awasak Mîkiwâhp;
  - (ii) the calling and conducting of Board and committee meetings and the conduct of the business of the Board and committees generally; and
  - (iii) practice standards and procedures, subject to the principles and requirements of this Act.
- (b) The Board shall, forthwith after the making of Wiyasiwêwinihk, provide a copy to Chief and Council.

#### 5.11. Kwayask Kâ-tôtamihk Wiyasiwêwin

- (a) Every Governor, officer and employee of the Kinosêw Awasak Mîkiwâhp shall, in exercising powers and performing their duties;
  - (i) act honestly and in good faith and with a view to the best interests of the Children;
  - (ii) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances; and
  - (iii) comply with this Act, any Resolutions and the Wiyasiwêwinihk of the Kinosêw Awasak Mîkiwâhp.
- (b) No provision in any contract, resolution or bylaw relieves any Governor, officer or employee of the Kinosêw Awasak Mîkiwâhp from the duty to act in accordance with this Act and any Resolutions.

#### 5.12. Disclosure of Information

- (a) Chief and Council may request from the Kinosêw Awasak Mîkiwâhp any information, excluding personal information, that the Chief and Council considers

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necessary, and the Kinosêw Awasak Mîkiwâhp shall disclose the information in the form and manner determined by the Chief and Council.

- (b) Subject to (a), the Kinosêw Awasak Mîkiwâhp shall allow the Chief and Council's representative to:
  - (i) inspect and make copies of all records, accounts, reports and other documents for the Chief and Council and, in the case of an electronic document, make or cause to be made a printout of the electronic document; and
  - (ii) otherwise review the operations of the Kinosêw Awasak Mîkiwâhp.
- (c) If the information relates to Children and Families receiving any services from the Kinosêw Awasak Mîkiwâhp, the information is to be treated as having been provided in confidence.

5.13. Chief and Council may make Resolutions:

- (a) respecting investment by the Kinosêw Awasak Mîkiwâhp and terms and conditions of agreements entered into by the Kinosêw Awasak Mîkiwâhp;
- (b) respecting the borrowing of money by the Kinosêw Awasak Mîkiwâhp under section 5.4;
- (c) respecting indemnities referred to in section 5.5, any terms and conditions of an indemnity, and the circumstances and manner in which an indemnity may be given;
- (d) respecting conflict of interest guidelines, codes of conduct and any other guidelines and policies in respect of Governors, officers and employees of the Kinosêw Awasak Mîkiwâhp;
- (e) requiring the Kinosêw Awasak Mîkiwâhp to prepare records and accounts and to provide them to the Chief and Council, and respecting those records and accounts;
- (f) regarding charging for services; and
- (g) respecting generally the operations of the Kinosêw Awasak Mîkiwâhp.

## 6. PRINCIPLES AND REQUIREMENTS OF THE CHILD AND FAMILY SERVICES PROGRAM

### 6.1. Best Interests of the Child

This Act is to be interpreted and administered in accordance with the principle of the best interests of the Child, in particular:

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- (a) the best interests of the Child must be a primary consideration in the making of decisions or the taking of actions in the context of the provision of Child and Family Services in relation to a Child and, in the case of decisions or actions related to placing a Child into Paminêw, the best interests of the Child must be the paramount consideration; and
- (b) primary consideration must be given to the Child's physical, emotional and psychological safety, security and well-being, as well as to the importance, for that Child, of having an ongoing relationship with her Family and with the Driftpile Cree Nation or people to which she belongs and of preserving the Child's connections to her culture.

## 6.2. Factors to be Considered

To determine the best interests of a Child, all factors related to the circumstances of the Child must be considered, including:

- (b) the Child's cultural, linguistic, religious and spiritual upbringing and heritage;
- (c) the Child's needs, given the Child's age and stage of development, including but not limited to the Child's need for stability;
- (d) the nature and strength of the Child's relationship with the Child's Parent and any Family member who plays an important role in the Child's life;
- (e) the importance to the Child of preserving the Child's cultural identity and connections to the language and territory of Driftpile Cree Nation or community to which the Child belongs;
- (f) the Child's views and preferences, giving due weight to the Child's age and maturity, unless they cannot be ascertained;
- (g) any plans for the Child's care, including care in accordance with the customs or traditions of DCN or community to which the Child belongs;
- (h) any family violence and its impact on the Child, including whether the Child is directly or indirectly exposed to the family violence as well as the physical, emotional and psychological harm or risk of harm to the Child; and
- (i) any civil or criminal proceeding, order, condition, or measure that is relevant to the safety, security and well-being of the Child.

## 6.3. Cultural Continuity

This Act is to be interpreted and administered in accordance with the principle of cultural continuity as reflected in the following concepts:

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- (b) cultural continuity is essential to the well-being of a Child, a Family and Driftpile Cree Nation;
- (c) the transmission of the languages, cultures, practices, customs, healing practices, traditions, ceremonies and knowledge of DCN is integral to cultural continuity;
- (d) a Child's best interests are often promoted when the Child resides with members of the Child's Family and the culture of DCN is respected;
- (e) Child and Family Services provided in relation to a Child are to be provided in a manner that does not contribute to the assimilation of the Child or to the destruction of the culture of DCN; and
- (f) the characteristics and challenges of the region in which a Child and a Family is located are to be considered.

#### 6.4. Substantive Equality

This Act is to be interpreted and administered in accordance with the principle of substantive equality as reflected in the following concepts:

- (b) the rights and distinct needs of a Child with a disability are to be considered in order to promote the Child's participation, to the same extent as other children, in the activities of the Child's Family or Driftpile Cree Nation;
- (c) a Child must be able to exercise her rights under this Act, including the right to have her views and preferences considered in decisions that affect her, and the Child must be able to do so without discrimination, including discrimination based on sex or gender identity or expression;
- (d) a Child's Family member must be able to exercise her rights under this Act, including the right to have her views and preferences considered in decisions that affect the Family member, and she must be able to do so without discrimination, including discrimination based on sex or gender identity or expression;
- (e) the Kinosêw Awasak Mikiwâhp must be able to exercise without discrimination the rights of DCN under this Act, including the right to have the views and preferences of the Members considered in decisions that affect the Members; and
- (f) in order to promote substantive equality between Children and other children, a jurisdictional dispute must not result in a gap in the Child and Family Services that are provided in relation to Children.

#### 6.5. Provision of Services

Child and Family Services provided in relation to a Child are to be provided in a manner that:

- (b) takes into account the Child's needs, including with respect for the Child's physical, emotional and psychological safety, security and well-being;
- (c) takes into account the Child's culture;
- (d) allows the Child to know her family origins; and
- (e) promotes substantive equality between the Child and other children.

#### 6.6. Notice

In the context of providing Child and Family Services in relation to Members, to the extent that doing so is consistent with the best interests of the Child, before taking any significant measure in relation to the Child, the Kinosêw Awasak Mîkiwâhp must provide notice of the measure to the Child's Parent as well as to the Chief and Council.

#### 6.7. Personal Information

The Kinosêw Awasak Mîkiwâhp must ensure that the notice provided to the Chief and Council does not contain personal information about the Child, a member of the Child's Family or the Kanawêyimâwasow, other than information that is necessary to explain the proposed significant measure, or what is required by a Coordination Agreement.

#### 6.8. Notice, Representations and Party Status

In the context of a civil proceeding of any kind in front of any Court in respect to the provision of Child and Family Services in relation to a Child:

- (a) the Child's Parent have the right to notice, to make representations and to have party status; and
- (b) the Kinosêw Awasak Mîkiwâhp and the Chief and Council have the right to notice and to make representations.

#### 6.9. Priority to Preventive Services

In the context of providing Child and Family Services in relation to a Child, to the extent that providing Preventive Services to support the Child's Family is consistent with the best interests of the Child, the provision of those services are to be given priority over

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other services. The Kinosêw Awasak Mîkiwâhp shall coordinate with other DCN service providers to ensure there is no duplication of existing Preventive Services.

#### 6.10. Priority to Prenatal Services

Prenatal Services are to be given priority over other services in order to prevent taking the Child into care at the time of the Child's birth. The Kinosêw Awasak Mîkiwâhp shall coordinate with other DCN service providers to ensure there is no duplication of existing Prenatal Services.

#### 6.11. Socio-Economic Conditions

In the context of providing Child and Family Services in relation to a Child, to the extent that it is consistent with the best interests of the Child, the Child must not be Paminêw solely on the basis of their socio-economic conditions, including poverty, lack of adequate housing or infrastructure or the state of health of her Parent.

#### 6.12. Reasonable Efforts

If a Child is in need of Child and Family Services, and the Child resides with one of the Child's Parents or another adult member of the Child's Family, the Kinosêw Awasak Mîkiwâhp shall not Paminêw the Child without first making reasonable efforts to have the Child continue to reside with that person, unless Paminêw immediately is consistent with the best interests of the Child.

#### 6.13. Placement of Child

##### (a) Priority

The placement of a Child in the context of providing Child and Family Services in relation to the Child, to the extent that it is consistent with the best interests of the Child, is to occur in the following order of priority:

- (i) with one of the Child's Parents;
- (ii) with another adult Member of the Child's Family;
- (iii) with an adult Member of Driftpile Cree Nation;
- (iv) with an adult who belongs to an Indigenous Community other than DCN; or
- (v) with any other adult.

##### (b) Placement With or Near Other Children

When the order of priority set out in (a) is being applied, the possibility of placing the Child with or near children who have the same Parent as the Child, or who are otherwise Members of the Child's Family, must be considered in the determination of whether a placement would be consistent with the best interests of the Child.

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(c) Customs and Traditions

The placement of a Child must take into account the customs and traditions of DCN such as with regard to customary adoption.

(d) Family Unity

In the context of providing Child and Family Services in relation to a Child, there must be a reassessment, conducted on an ongoing basis, of whether it would be appropriate to place the Child with:

- (i) a person referred to in (a)(i), if the Child does not reside with such a person; or
- (ii) a person referred to in (a)(ii), if the Child does not reside with such a person, unless the Child resides with a person referred to in (a)(i).

(e) Attachment and Emotional Ties

In the context of providing Child and Family Services in relation to a Child, if the Child is not placed with a member of her Family in accordance with (a)(i) or (a)(ii), to the extent that doing so is consistent with the best interests of the Child, the Child's attachment and emotional ties to each such member of her Family are to be promoted.

## 7. COMPONENTS OF THE CHILD AND FAMILY SERVICES PROGRAM

### 7.1. Defining When a Child is in Need of Child Protection Services

For the purposes of this Act, a Child is in need of Child Protection Services if there are reasonable and probable grounds to believe that the safety, security or development of the Child is endangered because of any of the following:

- (a) the Child has been abandoned or lost;
- (b) the Parent of the Child is deceased, and the Child has no other Parent;
- (c) the Child is neglected by the Parent;
- (d) the Child has been or there is substantial risk that the Child will be physically injured or sexually abused by the Parent of the Child;
- (e) the Parent of the Child is unable or unwilling to protect the Child from physical injury or sexual abuse;
- (f) the Child has been emotionally injured by the Parent of the Child;
- (g) the Parent of the Child is unable or unwilling to protect the Child from emotional injury; or

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- (h) the Parent of the Child has subjected the Child to or is unable or unwilling to protect the Child from cruel and unusual treatment or punishment.

#### 7.2. Definition of Neglect

For the purposes of 7.1(c), a Child is neglected if:

- (a) the Parent is unable or unwilling to obtain for the Child, or to permit the Child to receive, essential medical, surgical or other remedial treatment that is necessary for the health or well being of the Child; or
- (b) is unable or unwilling to provide the Child with adequate care or supervision.

#### 7.3. Definition of Emotional Injury

For the purposes of 7.1(f), a Child is emotionally injured if

- (a) there is impairment of the Child's mental or emotional functioning or development; and
- (b) there are reasonable and probable grounds to believe that the emotional injury is the result of:
  - (i) rejection;
  - (ii) emotional, social, cognitive or physiological neglect;
  - (iii) deprivation of affection or cognitive stimulation;
  - (iv) exposure to family violence or severe domestic disharmony;
  - (v) inappropriate criticism, threats, humiliation, accusations or expectations of or toward the Child;
  - (vi) the mental or emotional condition of the Parent of the Child or of anyone living in the same home as the Child; or
  - (vii) exposure to criminal behaviour.

#### 7.4. Reporting Child in Need

- (a) Any person, including a Peace Officer, who has reasonable and probable grounds to believe that a Child is in need of Child Protection Services shall forthwith report the matter to the Nîkâni-kaskihcikêw.
- (b) Subsection (a) applies notwithstanding that the information on which the belief is founded is confidential and its disclosure is prohibited under any other legislation.
- (c) Section 7.4 does not apply to information that is privileged as a result of a solicitor client relationship.

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- (d) No action lies against a person reporting pursuant to this section unless the reporting is done maliciously or without reasonable and probable grounds for the belief.

#### 7.5. Investigation and Response

- (a) If the Nîkâni-kaskihcikêw receives information in the form of:
  - (i) a request for Child Protection Services;
  - (ii) a report under 7.4; or
  - (iii) any other allegation or evidence that a Child may be in need of Child Protection Services,the Nîkâni-kaskihcikêw must investigate the Child's need for Child Protection Services unless the Nîkâni-kaskihcikêw is satisfied that the information was provided maliciously and is unfounded or that the report or allegation was made without reasonable and probable grounds.
- (b) During an investigation, the Nîkâni-kaskihcikêw:
  - (i) may request the assistance of a Peace Officer; and
  - (ii) may convey a Child to any place in order to complete the investigation.
- (c) If, after an investigation, the Nîkâni-kaskihcikêw is of the opinion that the Child is in need of Child Protection Services, the Nîkâni-kaskihcikêw must:
  - (i) if the Nîkâni-kaskihcikêw is satisfied that it is consistent with the Child's need for Child Protection Services, provide Preventive Services to the Child or to the Child's Family in accordance with this Act; or
  - (ii) if the Nîkâni-kaskihcikêw is not satisfied that the Child's need for Child Protection Services can be met under (d)(i), take whatever action under this Act that the Nîkâni-kaskihcikêw considers appropriate, including the provision of Child Protection Services in accordance with this Act.
- (d) The Nîkâni-kaskihcikêw may, if the Nîkâni-kaskihcikêw is satisfied that it is consistent with the Child's need for Child Protection Services, convey the Child to the person who has Kanawêyim of the Child or to a person who is temporarily caring for the Child.
- (e) If Preventive Services are provided to the Child or to the Child's Family, the person or a member of the organization providing those services must report to the Nîkâni-kaskihcikêw any matter respecting the Child that may require further investigation by the Nîkâni-kaskihcikêw.

## 7.6. Preventive Services

- (a) A member of a Family may apply to the Nîkâni-kaskihcikêw for and may receive from the Kinosêw Awasak Mîkiwâhp Preventive Services in order to aid in the resolution of Family matters which if unresolved may create an unsuitable environment for a child.
- (b) The Kinosêw Awasak Mîkiwâhp may enter into an agreement with the Parent of a Child if, in the opinion of the Nîkâni-kaskihcikêw the Child is at risk of needing Child Protection Services but as a result of the provision of Preventive Services, the Child's safety, security or development will be adequately protected if the Child remains with the Child's Parent.
- (c) Preventive Services may include, by agreement with the Parent, the appointment of a Mediator by the Miyo-Wîcêhtowin Onâtamâkêw to attempt to resolve matters relating to the Child's need for Child Protection Services.
- (d) The Kinosêw Awasak Mîkiwâhp may provide or purchase such supportive and treatment services as may be required to prevent family disruption or restore family functioning.
- (e) The Kinosêw Awasak Mîkiwâhp may provide emergency financial and material assistance to prevent family disruption.
- (f) Any interested community group or individual may apply to the Nîkâni-kaskihcikêw for assistance in resolving community problems which are affecting the ability of Families to care adequately for their children.
- (g) The Kinosêw Awasak Mîkiwâhp may establish programs to facilitate the participation of volunteers in the provision of services.
- (h) Where it appears to the Nîkâni-kaskihcikêw that a Child is in need of care outside the home for varying periods of time during the day, the Kinosêw Awasak Mîkiwâhp may, by agreement with the Parent of the child, place the Child in a Care Facility that operates as a day care.
- (i) Where it appears that the Parent requires training in homemaking and child care, the Nîkâni-kaskihcikêw may with consent of the Parent place a parent aide in the home of the Parent in order to provide the training.
- (j) If a Nîkâni-kaskihcikêw is satisfied that without the provision of customary care a Child may be in need of Child Protection Services because the Parent of the Child cannot be located after a reasonable search or has died or become incapacitated, the Nîkâni-kaskihcikêw may appoint a person to care for the Child until the Parent can be located or other satisfactory arrangements can be made for the care of the Child, and the Nîkâni-kaskihcikêw may convey the Child for the purpose of placing the Child in the care of that person.

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- (k) The person appointed under (i) may care for the Child in the home in which the Child was found and for that purpose may:
  - (i) enter the home;
  - (ii) live in the home;
  - (iii) carry on normal homemaking activities in the home that are necessary for the care of the Child; and
  - (iv) exercise reasonable control over all Children residing in the home.
- (l) The person appointed under (i) may care for the Child in the person's own home for the amount of time that the Nîkâni-kaskihcikêw directs.
- (m) When a person is appointed under (i), no liability attaches to that person in the course of carrying out that person's duties under (j) or to the Nîkâni-kaskihcikêw assisting that person in carrying out those duties by reason only of the entry into and occupation of the home without the consent of the owner or occupier.
- (n) With the agreement of all Parents who have Kanaweyim of the Child, the Nîkâni-kaskihcikêw may provide counselling, treatment and other services to the Child and Family as a whole, whether in the home of the Family, or in a home provided by the Nîkâni-kaskihcikêw, for such periods of time as may be agreed to between the Nîkâni-kaskihcikêw and the Parents.

7.7. Kanawêyim Agreement

- (a) The Kinosêw Awasak Mîkiwâhp may enter into an agreement with all Parents of a Child under which Kanawêyim of the Child is given to the Nîkâni-kaskihcikêw if, in the opinion of the Nîkâni-kaskihcikêw:
  - (i) the Child is in need of Child Protection Services; and
  - (ii) the safety, security or development of the Child cannot be adequately protected if the Child remains with the Child's Parent.
- (b) The agreement may include the following:
  - (i) the conditions, if any, under which the Nîkâni-kaskihcikêw will consult with the Parents on matters affecting the Child; and
  - (ii) any other matter relating to the parenting of the Child.
- (c) The agreement may be made for whatever period of time the parties agree is in the best interests of the Child, or it may be permanent.
- (d) The agreement may be terminated by the The Kinosêw Awasak Mîkiwâhp if, in the opinion of the Nîkâni-kaskihcikêw the Agreement is no longer in the best interests of the child.
- (e) If the agreement is permanent, the Nîkâni-kaskihcikêw must make best efforts to find new Parents for the Child as quickly as possible.

#### 7.8. Access Agreements

- (a) The Kinosêw Awasak Mîkiwâhp may enter into an access agreement with a Parent of a Child who is the subject of a Kanawêyim Agreement or anyone who has a significant relationship with the Child, either as part of a Kanaweyim Agreement, or as a separate agreement.
- (b) An Access Agreement entered into pursuant to section 7.8(a) terminates with the termination of the Kanaweyim Agreement.
- (c) An Access Agreement may be terminated by the Kinosew Awasak Mikiwahp if, in the opinion of the Nîkâni-kaskihcikêw the Agreement is no longer in the best interests of the child.

#### 7.9. Minor Parent

- (a) The Kinosêw Awasak Mîkiwâhp shall work with other interested professionals and organizations to ensure that Minor Parents are informed of services that are available to them.
- (b) The Nîkâni-kaskihcikêw on application by a Minor Parent shall establish a plan and provide services which are in the best interests of the parent and child.

#### 7.10. Agreements with Minors

Any agreement entered into under this Act by a person under 18 years of age is as valid as if that person had attained the age of 18.

#### 7.11. Termination of Agreement

The Nîkâni-kaskihcikêw may terminate a Kanawêyim or access agreement and return the Child to the Parents at any time if in the Nîkâni-kaskihcikêw's opinion the Parents are ready, willing and able to resume parenting the Child.

#### 7.12. Paminêw

- (a) If a Nîkâni-kaskihcikêw has reasonable and probable grounds to believe that a Child is in need of Child Protection Services, the Nîkâni-kaskihcikêw may Paminêw the Child, and may request the assistance of a Peace Officer in order to do so.
- (b) The Nîkâni-kaskihcikêw and any Peace Officer called on for assistance, may, by force if necessary, enter a place or premises and search for and Paminêw the Child.
- (c) A Peace Officer may Paminêw a Child in need of Child Protection Services and, as soon as practical thereafter, place the Child in the Kanawêyim of the Nîkâni-kaskihcikêw.

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- (d) If a Child is apprehended in Alberta or another province under the authority of that province's or other child welfare legislation and placed in the custody of the director by that province's or other child welfare authorities, the Child is deemed to be Paminêw under this Act as well, effective on the date the Child is so placed.

#### 7.13. Notice of Paminêw

- (a) If a Child has been Paminêw, the Nîkâni-kaskihcikêw shall notify the Parents of the Child forthwith that the Child has been taken into care, the reasons for it, and provide contact information of the Nîkâni-kaskihcikêw.
- (b) Notice under (a) may be by any method and may be oral, in writing, or electronically.
- (c) The validity of proceedings pursuant to this Act is not affected if the Nîkâni-kaskihcikêw is unable, after reasonable efforts, to give notice in accordance with this section.

#### 7.14. Exclusive Kanawêyim

If a Child has been Paminêw, the Nîkâni-kaskihcikêw has exclusive Kanawêyim of the Child and is responsible for the Child's care, maintenance and well being.

#### 7.15. Health Care on Paminêw

- (a) If the Parent of a Child who has been Paminêw is unable, unavailable, or refuses to consent to the provision of essential medical, surgical, dental or other remedial treatment for the Child that is recommended by a physician, dentist, or other qualified medical professional, the Nîkâni-kaskihcikêw may authorize the provision of any recommended treatment for the Child.
- (b) If a Child is treated under this section, no liability attaches to the person treating the Child by reason only that the Parent of the Child did not consent to the treatment.

#### 7.16. Kanawêyim after Paminêw

- (a) If a Child is Paminêw by the Nîkâni-kaskihcikêw, the Child shall remain in the Kanawêyim of the Nîkâni-kaskihcikêw until the Nîkâni-kaskihcikêw decides that the Parents or other Family of the Child are ready, willing and able to parent the Child, or, failing which, the Child is adopted.
- (b) The Nîkâni-kaskihcikêw may decide who has access to a Child who has been Paminêw.

#### 7.17. Right to Kanawêyim

Subject to any applicable terms of a Coordination Agreement, the right of the Nîkâni-kaskihcikêw to the Kanawêyim of a Child when the Child is in the Kanawêyim of the

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Nîkâni-kaskihcikêw takes precedence over the rights given by any order or agreement not made pursuant to this Act respecting guardianship, custody, access, contact, parenting time or the Child's placement, whether that order or agreement:

- (a) was in respect of a person who was a party to the proceedings under this Act or otherwise; or
- (b) was granted or made before or after the Child came into the Kanawêyim of the Nîkâni-kaskihcikêw.

#### 7.18. Death of Child

When a Child who is in the Kanawêyim of the Nîkâni-kaskihcikêw dies, the Nîkâni-kaskihcikêw shall

- (a) notify the Family;
- (b) notify the local Police Service and Provincial Coroner;
- (c) consent to an autopsy of the body of the Child; and
- (d) in consultation with the Family, arrange for the burial or other disposition of the body of the Child.

#### 7.19. Secure Services Placement

If a Child or the Child's Family is receiving Services under this Act, or the Child is in the Kanawêyim of the Nîkâni-kaskihcikêw and the Nîkâni-kaskihcikêw has reasonable and probable grounds to believe that:

- (a) the Child is in a condition presenting an immediate danger to the Child or others;
- (b) it is necessary to confine the Child in order to stabilize and assess the Child; and
- (c) less intrusive measures are not adequate to sufficiently reduce the danger,

the Nîkâni-kaskihcikêw may convey the Child, and may detain the Child while the Child is being conveyed, to a secure services facility and may confine the Child in a secure services facility.

#### 7.20. General Placement

The Nîkâni-kaskihcikêw shall place Children who are in her Kanawêyim applying the priorities and other considerations set out in section 6.

#### 7.21. Approval Required for Care Home

No person shall operate a Care Home unless that person holds a subsisting Care Home Approval issued by the Nîkâni-kaskihcikêw under this Act.

#### 7.22. Application for Approval

- (a) An application for a Care Home Approval or a renewal of a Care Home Approval must:
  - (i) be made to the Nîkâni-kaskihcikêw in a form satisfactory to the Nîkâni-kaskihcikêw; and
  - (ii) state the maximum number of persons intended to be accommodated or cared for in the Care Home.
- (b) On considering an application for or renewal of a Care Home Approval, the Nîkâni-kaskihcikêw may issue a Care Home Approval and impose terms and conditions in the Approval.
- (c) Unless otherwise specified in the Approval, the term of a Care Home Approval is one year from the date of its issue.
- (d) A Care Home Approval issued under this section must indicate:
  - (i) the Care Home that may be operated under the Approval;
  - (ii) who may operate the Care Home;
  - (iii) the maximum number of children, other than children of an Approved Kanawêyimâwasow, who may reside in the Care Home;
  - (iv) the term of the Approval if the term is other than one year from the date of issue; and
  - (v) any conditions to which the Approval is subject.

#### 7.23. Varying an Approval

The Nîkâni-kaskihcikêw may, on the application by an Approval holder in a form acceptable to the Nîkâni-kaskihcikêw, vary the terms or conditions to which the Approval is subject.

#### 7.24. Standards

A holder of a Care Home Approval must ensure that the Care Home meets the requirements of any applicable Resolutions, and the Care Home Approval holder may not charge more for Care Home services than the rates provided for in any applicable Resolution.

#### 7.25. Inspection

- (a) Subject to (b), for the purposes of ensuring compliance with this Act, the regulations and any conditions to which a Care Home Approval is subject, the Nîkâni-kaskihcikêw or a person authorized by the Nîkâni-kaskihcikêw may:

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- (i) at any reasonable hour enter a Care Home other than a private dwelling place and inspect it;
  - (ii) enter a Care Home that is a private dwelling place and inspect it with the consent of the owner or operator of the private dwelling place;
  - (iii) require the production of any books, records or other documents and examine them, make copies of them or remove them temporarily for the purpose of making copies;
  - (iv) inspect and take samples of any material, food, medication or equipment being used in a Care Home; and
  - (v) perform tests, take photographs or make recordings in respect of a Care Home.
- (b) When a person removes any books, records or other documents under (a)(iii), the person must:
- (i) give to the person from whom those items were taken a receipt for those items; and
  - (ii) forthwith make copies of, take photographs of or otherwise record those items and forthwith return those items to the person to whom the receipt was given.
- (c) When a person takes samples under (a)(iv), the person must:
- (i) give to the person from whom those items were taken a receipt for those items; and
  - (ii) on that person's request, return those items to that person when those items have served the purposes for which they were taken.
- (d) If entry is refused or cannot be reasonably obtained under (a) or a person interferes with a Nîkâni-kaskihcikêw or a person authorized by a Nîkâni-kaskihcikêw in exercising rights and performing duties under this section, an application may be made to the Miyo-Wîcêhtowin Onâtamâkêw for an order that the Nîkâni-kaskihcikêw or a person authorized by the Nîkâni-kaskihcikêw may:
- (i) at any reasonable hour enter the Care Home and inspect it;
  - (ii) require the production of any books, records or other documents and examine them, make copies of them or remove them temporarily for the purpose of making copies;
  - (iii) inspect and take samples of any material, food, medication or equipment being used in the Care Home; and
  - (iv) perform tests, take photographs or make recordings in respect of the Care Home,

and the Miyo-Wîcêhtowin Onâtamâkêw may, on being satisfied that the order is necessary for the purpose of this section, make any order that it considers appropriate.

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- (e) An application under (d) may be made without notice, if the Miyo-Wîcêhtowin Onâtamâkêw considers it proper.

#### 7.26. Order After Inspection

If a Care Home has been inspected under 7.25 and the Nîkâni-kaskihcikêw is of the opinion that:

- (a) this Act, a Resolution or a condition of a Care Home Approval is not being complied with; or
- (b) the Care Home is not providing proper care,

the Nîkâni-kaskihcikêw may in writing order the person operating that Care Home to take measures as specified in the order within the time limits specified in the order.

#### 7.27. Suspension or Cancellation of Approval

- (a) When the Nîkâni-kaskihcikêw is of the opinion that:
  - (i) a Care Home Approval holder is not providing proper care to a Child who resides in the Approval holder's Care Home;
  - (ii) the premises described in the Care Home Approval have become unfit or unsuitable for a Care Home; or
  - (iii) a Care Home Approval holder has not complied with:
    - A. this Act, a Resolution, a condition of the Care Home Approval, or an Order of the Miyo-Wîcêhtowin Onâtamâkêw; or
    - B. any other DCN legislation that applies to a Care Home;

the Nîkâni-kaskihcikêw may, by notice in writing to the Care Home Approval holder, vary, suspend or cancel the Care Home Approval and terminate the Approval holder's contract with the Kinosêw Awasak Mîkiwâhp to provide Care Home services.

- (b) Every contract between the Kinosêw Awasak Mîkiwâhp and the owner or operator of a Care Home is deemed to contain a provision that the Kinosêw Awasak Mîkiwâhp may terminate the contract without notice and without damages payable by the Kinosêw Awasak Mîkiwâhp to the owner or operator if the owner or operator fails to comply with an Order of the Miyo-Wîcêhtowin Onâtamâkêw or if the Care Home Approval is suspended, cancelled or expired.

### 8. NOTICE OF LEGISLATIVE AUTHORITY AND COORDINATION AGREEMENT

- (a) When Driftpile Cree Nation intends to exercise its legislative authority in relation to Child and Family Services, DCN may give notice of that intention to Canada and each province in which Members and Children are located.

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- (b) Driftpile Cree Nation may also request that Canada and each of those provinces enter into a Coordination Agreement with DCN in relation to the exercise of the legislative authority, respecting, among other things:
  - (i) the provision of emergency services to ensure the safety, security and well-being of Children;
  - (ii) support measures to enable Children to exercise their rights effectively;
  - (iii) fiscal arrangements, relating to the provision of Child and Family Services by DCN that are sustainable, needs-based and consistent with the principle of substantive equality in order to secure long-term positive outcomes for Children, Families and DCN, and to support the capacity of DCN to exercise its legislative authority effectively; and
  - (iv) any other coordination measure related to the effective exercise of DCN legislative authority.

## 9. ADOPTION

### 9.1. Customary Adoption

- (a) A Child in the Kanawêyim of the Nîkâni-kaskihcikêw may be adopted in accordance with the customary adoption practices of Driftpile Cree Nation.
- (b) Such an adoption terminates any other order, agreement, or rights with respect to the Child.

### 9.2. Financial Assistance

- (a) A Nîkâni-kaskihcikêw may provide financial assistance in respect of a Child who was in the Kanawêyim of the Nîkâni-kaskihcikêw to a person who adopts the Child.
- (b) If a Child who at one time was in the Kanawêyim of the Nîkâni-kaskihcikêw is living independently, the Nîkâni-kaskihcikêw may provide financial assistance to the Child, until the Child reaches the age of 26.

## 10. DISPUTE RESOLUTION

### 10.1. Miyo-Wîcêhtowin Onâtamâkêw Established

- (a) The Miyo-Wîcêhtowin Onâtamâkêw has the capacity and, subject to this Act and any Resolutions, the rights, powers and privileges of a natural person.
- (b) Chief and Council may appoint up to seven members of the Miyo-Wîcêhtowin Onâtamâkêw for a term of 2 years.

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- (c) Each Participating Indigenous Community may appoint up to 2 members of the Miyo-Wîcêhtowin Onâtamâkêw for a term of 2 years.
- (d) The Kinosêw Awasak Mîkiwâhp shall compensate the members of a Miyo-Wîcêhtowin Onâtamâkêw by remuneration, and payment for travelling, living and other expenses incurred in the course of their duties as members.
- (e) Driftpile Cree Nation and any Participating Indigenous Community shall be responsible for the remuneration and expenses of their appointed members.
- (f) Notwithstanding (b), where the appointment of a member of a Miyo-Wîcêhtowin Onâtamâkêw expires, the member continues to hold office until
  - (i) the member is reappointed,
  - (ii) a successor is appointed, or
  - (iii) a period of 3 months has elapsed,whichever occurs first.
- (g) The Chair and one or more Vice-chairs of the Miyo-Wîcêhtowin Onâtamâkêw shall be appointed by Resolution from among the members of the Miyo-Wîcêhtowin Onâtamâkêw, and DCN shall be responsible for their remuneration and expenses.
- (h) The Miyo-Wîcêhtowin Onâtamâkêw shall maintain an office at a place or places to be determined by Resolution.
- (i) The fiscal year of the Miyo-Wîcêhtowin Onâtamâkêw shall run from April 1st of each year to March 31st of the following year. The Chair shall prepare annual financial statements in accordance with generally accepted accounting principles and provide them to DCN and Participating Indigenous Communities, along with a written report outlining the activities of the Miyo-Wîcêhtowin Onâtamâkêw in the previous year.
- (j) The quorum to hear a review under this Act is 3 members, at least one of which must be a member of DCN or Participating Indigenous Community of the Applicant and of the Child, but an appeal may be heard by any one member for procedural matters related to the review or in emergency circumstances provided for in a Resolution.

## 10.2. Policies

Subject to this Act, the Miyo-Wîcêhtowin Onâtamâkêw may make policies:

- (b) respecting rules under which reviews under this Act are to be made and heard and dealing generally with all matters of procedure before the Miyo-Wîcêhtowin Onâtamâkêw;

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- (c) respecting the emergency circumstances in which a review may be heard by one member of the Miyo-Wîcêhtowin Onâtamâkêw;
- (d) prescribing the forms including notices to be used in any application made to the Miyo-Wîcêhtowin Onâtamâkêw;
- (e) respecting Mediation and who may apply to the Miyo-Wîcêhtowin Onâtamâkêw for Mediation; and
- (f) respecting the qualifications of Mediators.

#### 10.3. Persons who can make a Request

The following persons directly affected by a decision of the Nîkâni-kaskihcikêw under this Act may request, in writing within 30 days of the decision, that the Miyo-Wîcêhtowin Onâtamâkêw review the decision:

- (a) a Child;
- (b) a Parent;
- (c) a Family member;
- (d) an individual who has had continuous care of a Child for more than 6 of the 12 months preceding the decision of the Nîkâni-kaskihcikêw;
- (e) a person who is receiving or may be eligible to receive Preventive Services and financial assistance under this Act;
- (f) a person who is refused financial assistance under this Act;
- (g) an applicant for a Care Home Approval or a renewal of a Care Home Approval; or
- (h) a Governor whose appointment has been terminated by Chief and Council.

#### 10.4. Contents of a Request

A request under 10.3. must set out:

- (a) the decision in sufficient details for the Miyo-Wîcêhtowin Onâtamâkêw to be able to identify it; and
- (b) the grounds for the review.

#### 10.5. Service of a Request

The person making the request shall give it to the Nîkâni-kaskihcikêw, who upon receiving it shall within 7 days:

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- (a) send a copy to the Board and the Miyo-Wîcêhtowin Onâtamâkêw; and
- (b) in the case of a dispute under section 10.3(h), to the Chief and Council as well.

#### 10.6. Standing to make Submissions

In reviewing a decision, the Miyo-Wîcêhtowin Onâtamâkêw may receive oral or written submissions from:

- (b) the person who requested the review and the Nîkâni-kaskihcikêw; and
- (c) in the case of a dispute under 10.3(h), the Chief and Council.

#### 10.7. Investigative Authority

The Miyo-Wîcêhtowin Onâtamâkêw may also conduct its own investigations and receive evidence from any other person it deems necessary in order to make its decision.

#### 10.8. Mediation

At any stage of the proceedings the Miyo-Wîcêhtowin Onâtamâkêw may, with the agreement of the parties, direct that the dispute should be mediated by a Mediator appointed by the Miyo-Wîcêhtowin Onâtamâkêw.

#### 10.9. Powers of the Miyo-Wîcêhtowin Onâtamâkêw

On completing its review the Miyo-Wîcêhtowin Onâtamâkêw may

- (a) confirm the decision that has been reviewed;
- (b) direct the Nîkâni-kaskihcikêw to review and reconsider the decision; or
- (c) in the case of a dispute under section 10.3(h), reverse the decision.

#### 10.10. Notice of Decision

The Miyo-Wîcêhtowin Onâtamâkêw must, within 60 days of receiving the request under section 10.5(a), provide the person who requested the review with a copy of the decision that includes the reasons.

#### 10.11. Kanawêyim Agreement Mediation

The Miyo-Wîcêhtowin Onâtamâkêw shall provide Mediation of matters in accordance with section 7.7.

#### 10.12. Care Homes Orders

The Miyo-Wîcêhtowin Onâtamâkêw may also make orders pursuant to section 7.25(d).

## 11. GENERAL

### 11.1. Delegation from Nîkâni-kaskihcikêw

- (a) The Nîkâni-kaskihcikêw may delegate any power, duty or function of the Nîkâni-kaskihcikêw under this Act to any of the following:
  - (i) a person employed or engaged in the administration of this Act;
  - (ii) a person who is providing care to a Child in respect of that Child; or
  - (iii) any other person.

### 11.2. Delegation to Nîkâni-kaskihcikêw

- (a) The Nîkâni-kaskihcikêw is authorized to receive any authority delegated to an official by any government or child welfare authority relating to a Child who is in the custody or under the guardianship of that government or authority.
- (b) The Nîkâni-kaskihcikêw is authorized to receive any authority under any provincial legislation relating to a Child.

### 11.3. Protection from Liability

- (a) Subject to (b), no action lies or may be commenced or maintained against any individual, the Nîkâni-kaskihcikêw, the Kinosêw Awasak Mîkiwâhp, Chief and Council, Participating Indigenous Community or the Miyo-Wîcêhtowin Onâtamâkêw in respect of anything done or omitted to be done in the exercise or intended exercise of any power under this Act or in the performance or intended performance of any duty or function under this Act.
- (b) Subsection (a) does not apply in relation to anything done or omitted to be done in bad faith.

### 11.4. Computation of Time

- (a) If in this Act the time limited for the doing of a matter expires or falls on a holiday, it may be done on the day next following that is not a holiday.
- (b) If in this Act the time limited for the doing of a matter, expires or falls on a day on which the office or place in which it is required to be done is not open during its regular hours of business, it may be addressed on the day next following on which the office or place is open

## 12. REVIEW AND AMENDMENT OF ACT

### 12.1. Process to Review

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- (a) Chief and Council may at any time by Resolution amend or repeal the Act, but in part only.
- (b) Any amendment, or repeal shall be effective for 6 months from the effective date set out in the Resolution.
- (c) Notwithstanding (b), an amendment to or repeal of the Act may only be made permanent if approved by the Members pursuant to an Approval Resolution within 6 months of the effective date of the amendment or repeal.
- (d) If the amendment, or repeal is not approved by the Members within 6 months, it ceases to have effect immediately.
- (e) Every 5 years after the day on which this Act comes into force, DCN must undertake a review of the provisions and operation of this Act.

#### 12.2. Report

The Kinosêw Awasak Mîkiwâhp must prepare a report for the review conducted under 12(1)(e) that sets out their conclusions and recommendations.

#### 12.3. Tabling of Report

Chief and Council must cause the report to be tabled at the next regular Chief and Council meeting after the day on which the report is submitted.

### 13. DCN RESOLUTIONS

Chief and Council may make any Resolutions required to facilitate the operation of this Act, but those Resolutions are void if they conflict with any provisions of this Act.

### 14. CHIEF AND COUNCIL APPOINTMENTS

- (a) Chief and Council may appoint experts or persons having special technical or legal knowledge to advise the Miyo-Wîcêhtowin Onâtamâkêw when it performs its duties and functions under this Act.
- (b) A person appointed under (a) may be paid the remuneration and expenses that the Chief and Council prescribes.

### 15. CONFIDENTIALITY

- (a) The Nîkâni-kaskihcikêw and any person employed or assisting in the administration of this Act, including the Board, may disclose or communicate personal information that comes to the Nîkâni-kaskihcikêw's or person's or Board's attention under this Act only in accordance with proceedings before the Miyo-Wîcêhtowin Onâtamâkêw, or as follows:

- (i) to any person or organization, if the disclosure is necessary to plan services for or provide services to the Child or the Child's Family or to plan or provide for the day to day care or education of the Child;
  - (ii) to the Parents or Family of the Child to whom the information relates;
  - (iii) to the Child to whom the information relates;
  - (iv) to any person employed in the administration of child protection legislation in another province or treaty territory in Canada; or
  - (v) to any person with the written consent of the Nîkâni-kaskihcikêw.
- (b) The Nîkâni-kaskihcikêw or a person acting on behalf of the Nîkâni-kaskihcikêw, may collect and use personal information, including health information, for the purposes of conducting an assessment or an investigation or providing services under this Act.
- (c) A hospital, medical care facility, Police Service, or other custodian of personal information shall provide personal information to the Nîkâni-kaskihcikêwon at the request of the Nîkâni-kaskihcikêw.
- (d) No liability attaches to the Nîkâni-kaskihcikêw or any other person who discloses or communicates information in accordance with this section if the disclosure or communication is made in the administration of this Act or for the protection of the Child.
- (e) Despite (a), the name of a person who makes a report to the Nîkâni-kaskihcikêw about a Child who may be in need of Child Protection Services and any information that would identify that person is privileged information of the person making the report and is not admissible in evidence in any action or proceeding or before any inquiry without the consent of the person.

## 16. NOT FOR PROFIT ORGANIZATION LEGISLATION

- (b) Subject to (c), federal legislation dealing with not for profit organizations shall not apply to either the Kinosêw Awasak Mîkiwâhp or the Miyo-Wîcêhtowin Onâtamâkêw.
- (c) Subject to (c), provincial legislation dealing with not-for-profit organizations shall not apply to the Kinosêw Awasak Mîkiwâhp or Miyo-Wîcêhtowin Onâtamâkêw.
- (d) The Kinosêw Awasak Mîkiwâhp or the Miyo-Wîcêhtowin Onâtamâkêw may incorporate and register under federal or provincial legislation for the same purposes and on the same terms as set out in this Act.

## 17. ENACTMENT

### 17.1. Enacting Resolution

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- (a) The provisions of this Act come into force on a date to be fixed by an Enacting Resolution
- (b) An Enacting Resolution is only valid if:
  - (i) the Enacting Resolution is passed following the approval of the Act by the Members;
  - (ii) the approval by the members was done in accordance with the Approval Resolution; and,
  - (iii) the Approval Resolution was passed before the approval was given by the Members.
- (c) An Enacting Resolution may provide that various sections of the Act shall come into force at different times, or upon later Enacting Resolutions.

17.2. Chief and Council shall authorize and approve a Cree translation of the Act.

## 18. TRANSITIONAL

18.1. Upon the enactment of this Act, subject to the terms of any applicable Coordination Agreement:

- (a) at the written request of the Nîkâni-kaskihcikêw, a province shall immediately transfer the file of a Child in the Kanawêyim of the province to the Nîkâni-kaskihcikêw;
- (b) the Nîkâni-kaskihcikêw shall be deemed to have assumed Kanawêyim of a Child in the Kanawêyim of a province when the Child's file has been transferred from the province to the Nîkâni-kaskihcikêw, or 30 days have elapsed since the request for the file was received by the province, whichever is sooner.
- (c) until the file has been so transferred, the current status of a Child in the Kanawêyim of the province continues, but the Nîkâni-kaskihcikêw must be consulted before any decisions are made with respect to the Child.

18.2. Any decision made without consultation with the Nîkâni-kaskihcikêw is deemed to be void.