

The Anishinaabe Nation in Treaty # 3

May, 2005

WHEREAS:

Manito gave to the Anishinaabe duties and responsibilities to govern themselves; and

Manito gave to the Anishinaabe the responsibility to provide care and protection for their children and families; and

The child is a sacred gift from Manito and represents the continuity of the nation; and

Traditional Anishinaabe law recognizes that the child is a sacred gift and that the best interests of the child are the paramount consideration in all matters relating to the child; and

Traditional Anishinaabe Law recognizes that the child must live, belong and grow within an environment of human relationships rooted in the family, the clan and the community, and that these needs are essential to the best interests of every Anishinaabe child; and

Anishinaabe culture comprises the whole accumulated knowledge and wisdom that has enabled the people to survive and to live a good life; and

Traditional Anishinaabe Law requires each Anishinaabe person to protect and uphold the culture for the benefit of future generations, and gives the Anishinaabe people guidance for their lives; and

The Anishinaabe people has since time immemorial passed down to successive generations, and adapted for each generation, temporal law consistent with traditional law to meet the needs of successive generations as they may arise, including law for the care and protection of its children and families; and

Anishinaabe law in respect of the care and protection of children and families continued to apply as law of the Anishinaabe Nation in Treaty # 3 following the Northwest Angle Treaty of October 3rd, 1873; and

The Crown failed to honour the Treaty and inflicted great injury on the nation and its citizens; and

Canada entered into a Framework Agreement on May 22, 1997 to assist the nation in rebuilding its traditional government; and

In a Statement of Reconciliation on January 8, 1998 the Crown apologized of the nation; and

The nation consists in its people, culture, language and sacred relationship to Mother Earth; and

The people may have recourse to sacred healing ceremonies, and

The nation has jurisdiction in respect of the care of its children; and

The nation has taken counsel among its Elders and citizens, and has constituted with the governments of Canada and the Provinces of Manitoba and Ontario; and

The nation now finds it necessary for the care of its children and protection of its families to express certain aspects of its temporal law in writing so that it may be better and more widely understood and respected, and to adapt it to meet the needs of the present generation;

THEREFORE:

The nation, with approval of the Elders and validation in traditional ceremony, and with ratification by the National Assembly, proclaims this Law.

PART 1

Name

1. This Law is Abinoojii Inakonigewin.

Interpretation

2. This Law is intended to be, and should be interpreted as, consistent with traditional Anishinaabe Law.

3. In this Law:

“alternative justice” means a formal system for administration of justice established by a community, where applicable depending upon severity of the offence;

“the Anishinaabe Abinoojii Agency” means an Agency established pursuant to this Law;

“Anishinaabe Abinoojii Board” means a voluntary board of grandparents who are willing to share their lifelong experience and who are appointed by Ka Niigaanibowe’t pursuant to this Law;

“Band” means any of the Bands listed in Schedule 1;

“candidate” means a suitably qualified citizen;

“child” means a child of a citizen who has the opportunity to grow up as a citizen, and includes an adoptive child;

“citizen” means a citizen of the nation and includes any member of a Band at the date this section comes into effect;

“community” means a community of the Anishinaabe, recognized as such in accordance with the traditional constitution of the nation;

“community board” means a voluntary board established by one or more communities pursuant to this Law;

“community worker” means any qualified person employed by a community board or the Anishinaabe

Abinoojii Agency to provide services pursuant to this law;

“custody” has the meaning derived from the laws of Canada;

“develop” includes consultation with community boards and workers;

“extended family” includes Niiwen’en’h and clan;

“family” means adult persons related by blood, adoption or marriage;

“fiduciary duty” means a duty to place the best interests of a child above all competing considerations;

“the Grand Council” means the government of the nation;

“intervene” means to take action to care for a child and including giving consent to placement;

“jurisdiction” includes a province or territory of Canada or a state or territory of the United States of America, and an aboriginal nation;

“ministry” means Ka Niigaanibowe’t and such staff as the Grand Council may provide from time to time, but does not include the Anishinaabe Abinoojii Agency or the Anishinaabe Abinoojii Board;

“the nation” means the Anishinaabe Nation in Treaty #3;

“Ka Niigaanibowe’t” means the person nominated and sworn in pursuant to this Law from time to time;

“non-citizen” means any person other than a citizen;

“parent” means any parent of a child and includes an adoptive parent and a foster parent;

“placement” means any arrangement, for any definite or indefinite time, for the care of a child and, for certainty, may include wardship, supervision orders, temporary care agreements, special needs agreements, customary care, customary adoption with or without subsidy, and private customary arrangements;

“services” means the child and family services to be provided pursuant to this Law;

“standards” means standards developed by the Anishinaabe Abinoojii Agency in consultation with communities and approved by Ka Niigaanibowe’t;

4. The purposes of the Law are to:

a) provide for the well-being of children;

b) ensure that their best interests are understood and given effect;
and

- c) prevent the intrusion of laws of other jurisdictions in their lives contrary to their best interests.

5. This Law gives effect to the following principles:

- a) This Law applies to parental responsibilities and to related responsibilities.
- b) This Law is based on Anishinaabe concepts of parental and other responsibilities for a child and not upon concepts of parental rights such as custody.
- c) A child exists in the cultural and social context of its family, which in turn exists in the cultural and social context of the extended family, clan, community and nation, and the best interests of the child require that its cultural and social context be support and protected.
- d) Access to fundamental attributes of Anishinaabe life, including Anishinaabe identity, language, cultural and society, is essential to the best interests of a child.
- e) Family services should support and strengthen the role of families in mental, physical, emotional and spiritual care of children.
- f) Prevention services should include a focus on the causes of molestation, abuse and abandonment.
- g) Child and family services should be delivered at the community level.
- h) Decisions affecting the life of a child must be free from intimidation, from political influence and from any influence that may be affected by conflict of interests.
- i) Healing of the people is essential to caring for children.

6. This Law should be interpreted having regard to realities that may affect the best interests of a child, including:

- a) The effect of severing a child's ties with fundamental attributes of Anishinaabe life may be as traumatic and long lasting as those of physical amputation.
- b) No life is free from risk, nor will it be.
- c) Living conditions affecting many Anishinaabe people may expose their children to higher risks than those of most other Canadians.
- d) Standards that reduce certain risks but result in injury to a child's identity or cultural supports may not be consistent with the best interests of the child.

PART 2

Responsibilities

7. Every parent has a responsibility to care for his or her child.
8. Every citizen has a responsibility to care for the child of an extended family member, if the parents do not.
9. Every citizen has a responsibility to care for the child of a clan member, if the extended family members and parents do not.
10. Every citizen has a responsibility to care for the child of a community member if the clan members, extended family members and parents do not.
11. Every citizen has a responsibility to care for the child of a citizen if community members, clan members, extended family members and parents do not.
12. The nation has a responsibility to care for the child of a citizen, if citizens, community members, clan members, extended family members and parents do not.
13. As between Anishinaabe parents, extended family members, clan members, community members, citizens and the nation, the best interests of the child are always the paramount consideration.

Authority

14. Every citizen who has a responsibility to care for a child should do so if and when the child is at need, and every citizen has authority to intervene as and to the extent necessary to do so.
15. A community worker has a responsibility to care for a child when the child is at need and has authority to intervene on behalf of the community as and to the extent necessary to do so.
16. The Anishinaabe Abinoojii Agency has a responsibility to care for a child when the child is at need and has authority to intervene on behalf of the nation as and to the extent necessary to do so.
17. The authority of a community worker and the authority of the Anishinaabe Abinoojii Agency are limited as provided by this Law.

Placement only by consent

18. Every placement of a child shall be made as needed with the consent of a parent, of its family, of its extended family, of its community, or of the nation.

Fiduciary duty

19. Every person who has the authority to make a decision

affecting the life of a child has a fiduciary to have regard to the best interests of the child.

Liability

20. Every person is responsible for his or her actions and inactions that affect a child, provided that no person is liable for anything done in good faith pursuant to his or her responsibility under this Law.

PART 3

Ka Niigaanibowe't

21. The Grand Chief may from time to time as, in accordance with the traditional protocol, a candidate to accept responsibility for the administration of this Law.
22. Upon accepting, the candidate will take an oath of office in a ceremony administered by the Elders in Council.
23. Ka Niigaanibowe't takes office upon completion of the ceremony.
24. The Grand Child will at the first opportunity report to the National Assembly on the qualifications of and reasons for choosing Ka Niigaanibowe't.
25. The appointment of Ka Niigaanibowe't is subject to ratification by the National Assembly.
26. Ka Niigaanibowe't shall report to the National Assembly.
27. Ka Niigaanibowe't may with the approval of the National Assembly issue written clarifications, consistent with this Law, of its meaning or application.

Agency

28. Ka Niigaanibowe't may, with the consent of the National Assembly, constitute or reconstitute an Agency to administer this Law.
29. The Anishinaabe Abinoojii Agency shall be a body corporate under the laws of the nation or of Canada.
30. The Anishinaabe Abinoojii Agency shall:
 - a) Develop standards for child and family services, including cultural services and pre-natal services, and for the delivery of services;
 - b) Develop standards for foster care training;
 - c) Develop standards for community worker training;
 - d) Develop standards for alternative caregivers;
 - e) Develop standards for supervision and monitoring of community

workers;

- f) Develop standards for board members;
- g) Monitor the delivery of services, having regard to standards;
- h) Carry out performance evaluations for community boards, supervisors and community workers;
- i) Develop and maintain a case management system and related databases;
- j) Subject to judicial and case management requirements, maintain the confidentiality of all parent or child information in the case management system;
- k) Develop and maintain regional offices for community-based services to off-reserve residents;
- l) Develop and maintain foster home database;
- m) Maintain a capacity to supervise and deliver services temporarily at the community level if required;
- n) Manage all services that extend beyond the traditional territory;
- o) Manage all matters involving the laws of a Province;
- p) Develop and maintain effective and efficient systems for administer this Law; and
- q) Report to Ka Niigaanibowe't.

31. Standards developed pursuant to the preceding section shall take effect when adopted by the Anishinaabe Abinoojii Board and approved by Ka Niigaanibowe't.

32. The Anishinaabe Abinoojii Agency may, subject to direction of Ka Niigaanibowe't:

- a) Provide training in accordance with standards that have been certified in writing by Ka Niigaanibowe't;
- b) Adopt and amend codes of conduct for members of the Anishinaabe Abinoojii Board and community boards, supervisors and community workers; and
- c) Do all things reasonably incidental to the administration of this Law.

33. If the Anishinaabe Abinoojii Agency advised in writing that supervision or delivery of services in any community does not meet standards, Ka Niigaanibowe't may direct the Anishinaabe Abinoojii Agency to supervisor or deliver services temporarily, and shall provide a written report to the Grand Chief.

Anishinaabe Abinoojii Board

34. Ka Niigaanibowe't may from time to time appoint members of a

Board to oversee the policies and procedures of the Anishinaabe Abinoojii Agency and, except as expressly authorized by this Law, Ka Niigaanibowe't shall not interfere in the day to day operations of the Agency.

35. The Board shall cause the Anishinaabe Abinoojii Agency to maintain financial records consistent with Generally Accepted Accounting Principles.
36. The Board shall obtain an annual audit and shall publish an annual report on the operations of the Anishinaabe Abinoojii Agency.
37. The Grand Council may pay prior approved expenses of members of the Board.

Community Services

38. Subject to this Law, each community may, alone or in concert with others, deliver services directly, and the Anishinaabe Abinoojii Agency will provide resources for such services.

Community board

39. Each community may, alone or in concert with others, establish a community board to oversee the supervision and delivery of services in that community or those communities.
40. The members of a community board shall be appointed or elected by the community independently of the community leadership.
41. A community board must establish, maintain and apply written policies and procedures consistent with standards developed by the Anishinaabe Abinoojii Agency.
42. Where a community board provides a budget for a fiscal year, the Anishinaabe Abinoojii Agency may provide funds in accordance with the budget, subject to such reasonable conditions as it sees fit.
43. Subject to the policies and procedures of a community board, services may include cultural services.
44. Where two or more communities share a single community board, the Anishinaabe Abinoojii Agency may pay the prior approved expenses of community board members.

Community support team

45. A community board may employ community workers as members of an integrated community care team.
46. The role of the community care team is to support and facilitate the role of the family and to monitor any situation that threatens the security of well being of a child.

Conflicts with laws of other jurisdiction

47. Subject to direction by and approval of Ka Niigaanibowe't, the Anishinaabe Abinoojii Agency may establish and maintain agreements with other jurisdiction for harmonizing the administration of this Law and the administration of their laws.
48. Every jurisdiction is requested to have due regard, in accordance with its law, to the purposes and provisions of this Law.
49. The Anishinaabe Abinoojii Agency may represent the nation in any proceeding respecting a child, and consent to any order that it is satisfied will be consistent with the best interest of the child and oppose any other order.

PART 4

Offences

50. Every citizen should respect abinooji aatisiwin.

Transition

51. Ka Niigaanibowe't may, with the written consent of the Grand Chief, authorize discussions with another jurisdiction, or may enter into an agreement with that jurisdiction on behalf of the Grand Council, to harmonize the administration of this Law and the laws of that jurisdiction.
52. Ka Niigaanibowe't may, with the written consent of the Grand Council, constitute the Anishinaabe Abinoojii Agency and direct it to implement a written transition plan before section 28 takes effect.
53. The Executive Council may enter into agreements with Canada or the province of Manitoba or the province of Ontario on behalf of the nation to fund the provision of services pursuant to this Law.
54. The Executive Council shall cause funding received pursuant to the preceding section to be disbursed to participating communities and to the Anishinaabe Abinoojii Agency according to need.
55. The provisions of this Law concerning funding are subject to any law of the Nation providing for financial administration.
56. Ka Niigaanibowe't may with the written consent of the Grand Chief do all things necessary to give effect to the purposes and principles of this Law.
57. For greater certainty, notwithstanding anything in this Law, it shall not apply in respect of any community until that community has assented to it.

Date of effect

58. Sections other than this section and the next shall come into

effect on dates to be determined by resolution of the Executive Council.

59. Subject to the preceding section, this Law takes effect when adopted.

Assenting communities:

<u>Community</u>	<u>Reference</u>	<u>Date</u>	<u>Certified</u>
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