

Media Backgrounder

On March 30, 2017, the Office of the Provincial Advocate for Children and Youth and young people made a submission to the Standing Committee on Justice Policy outlining their concerns with Bill 89, *Child, Youth and Family Services Act 2017*. The following is a summary of the [submission](#):

Children's Rights

- **Katelynn's Principle** - The bill's preamble speaks to the right for every child or youth to be heard, their views respected and involved in service-related decision-making, (referred to as Katelynn's Principle). The Advocate's Office and young people proposed this principle to the jury at the Katelynn Sampson inquest. The bill, as drafted, fails to fully live up to Katelynn's Principle since it does not explicitly require service providers to provide young people with the opportunity, information and supports to enable them to exercise their right to be heard.
- **Secure Isolation** - Despite a growing number of jurisdictions banning the use of solitary confinement (referred to as secure isolation), the bill does not prohibit this practice on young people for a period that exceeds 24 consecutive hours. The Advocate's Office continues to call on the government to prohibit this practice on young people for a period that exceeds 24 consecutive hours due to its detrimental impact on an individual's mental and physical health.
- **Language** - As drafted, the bill contains "watered down" language (e.g. "where possible," "may," and "could") that has the potential to discount the voices of young people. This goes against the stated principles found in the bill's preamble. For example, the Advocate's Office strongly believes that every young person's religion, culture, heritages and tradition must be respected and taken into consideration when considering their placement. Yet the bill uses qualifiers like "where possible."
- **Group Home Inspections** - The bill does not require ministry inspectors to notify or speak with young person during an inspection of their group home. The Advocate's Office is recommending that young people are notified about an inspection; given the opportunity to speak (privately) with inspectors about their experiences; and reports are made available to young people in a manner that is suitable for their understanding.
- **Mechanical Restraints** - Under Bill 89, the use of mechanical restraints will become entrenched into law. Currently, this practice is reflected in policy. The Advocate's Office believes that the legislated use of mechanical restraints works against the principles of the Act. Therefore, any reference to mechanical restraints should be removed.
- **Age of Protection** - The bill seeks to amend the age of protection for young people between the ages of 16 to 18. The Advocate's Office has long called for this change to ensure that young people in need of protection are not excluded because of their age. But as currently written, the bill is problematic as it fails to require young people to provide their **express consent** to come under the protection of children's aid (unless the young person is

incapable with respect to personal care). An amendment should be made requiring a young person's consent to come into protection.

Accountability and Quality

- **Oversight** - According to the ministry, Bill 89 will “strengthen the oversight of children’s aid societies and licensed residential services.” However, the bill does not require group home operators to publicly post their inspection reports to ensure compliance. In comparison, every long-term care home in the province is required to post their reports. The Advocate’s Office is recommending that the Minister publishes an annual report.
- **Measuring Outcomes** - The bill gives the Minister the power to collect personal information, including identity-based data. The Advocate’s Office is recommending that the Minister establishes clear, measurable outcomes and results for children and youth, and then collects the data to ensure that those targets and goals are being met.

Culture

- The Advocate’s Office is recommending that funding and other supports provided to First Nations children are comparable in quality and accessibility to services provided to other children.
- The bill references the over-representation of First Nations young people and the need for culturally-appropriate supports and services. Yet the bill is silent on the over-representation of Black youth in child welfare. In Toronto, African Canadians make up 6.9 per cent of the city’s population yet they represent an overwhelming 65 per cent of the children in care.
- The bill does not explicitly require service providers to consider the child or youth’s culture, religion, heritages and traditions, in order to preserve the young person’s cultural identity and connection to their community.

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