



# B.C. Adoption & Permanency Options Update

December 2017



REPRESENTATIVE FOR  
CHILDREN AND YOUTH



Dec. 13, 2017

The Honourable Darryl Plecas  
Speaker of the Legislative Assembly  
Suite 207, Parliament Buildings  
Victoria, B.C., V8V 1X4

Dear Mr. Speaker,

I have the honour of submitting the report *B.C. Adoption and Permanency Options Update, December 2017*, a follow-up to *Finding Forever Families: A Review of the Provincial Adoption System*, to the Legislative Assembly of British Columbia. This report is prepared in accordance with Section 6(b) of the *Representative for Children and Youth Act*.



Sincerely,  
Bernard Richard  
Representative for Children and Youth

pc: Ms. Kate Ryan-Lloyd  
Deputy Clerk and Clerk of Committees  
Legislative Assembly of British Columbia

Mr. Craig James  
Clerk of the Legislative Assembly

## Introduction

In June 2014, the Representative for Children and Youth issued a report entitled *Finding Forever Families: A Review of the Provincial Adoption System*. The report showed that, at any given time, more than 1,000 British Columbia children and youth in the care of the Ministry of Children and Family Development (MCFD) were waiting to be adopted.

During the release of the report, the then-Representative committed to issuing periodic updates on the status of B.C.'s "waiting children". This is the fourth such update.

In a document entitled *Factsheet: Adoption in British Columbia*, released on March 3, 2017, MCFD stated that "strengthening the provincial adoption program and finding loving permanent homes for B.C.'s waiting children and youth is a priority for the [ministry]." The same document added: "adoption recruitment and promotion is a consistent priority for the ministry."<sup>1</sup>

The Representative notes, however, that statistics for the current fiscal year to date do not reflect progress on these stated priorities. Ministry data shows that MCFD is not on pace to match its adoption placements of the past two fiscal years, which followed the initial 2014 RCY report on the provincial adoption system.

By the half-way point of this fiscal year (Sept. 30, 2017), only 84 B.C. children had been placed for adoption. At the current pace, adoption placements for 2017/18 are at risk of falling well short of the totals reached in either 2015/16 or 2016/17. In those two fiscal years, totals of 362 and 284 children and youth, respectively, were placed for adoption. The 84 adoption placements in the first six months of this fiscal year also lag far behind the totals of 149 and 104 placements in the first half of fiscal 2015/16 and 2016/17, respectively.

A particularly significant drop-off has come in the adoption of Indigenous children in B.C. this fiscal year. As of Sept. 30, MCFD reported that only 16 Aboriginal children had been placed for adoption. Comparatively, 55 and 40 Aboriginal children and youth had been placed for adoption as of Sept. 30 of the 2015/16 and 2016/17 fiscal years, respectively.<sup>2</sup> And of the 16 Aboriginal children who have been placed for adoption so far this fiscal year, only four were placed in Aboriginal homes. This is of particular concern to the Representative as it is contrary to existing policy and standards that call for placement of Indigenous children and youth in Indigenous homes.

The declining numbers come despite increases to MCFD's budget for adoptions and permanency. The ministry has committed \$31.2 million to adoption and permanency planning in 2017/18.<sup>3</sup> This has increased since the 2015/16 and 2016/17 fiscal years, when MCFD committed \$27.7 million<sup>4</sup> and \$30.7 million,<sup>5</sup> respectively.

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<sup>1</sup> Ministry of Children and Family Development, "FACTSHEET, Adoption in British Columbia" (British Columbia, 3 March 2017), <https://news.gov.bc.ca/factsheets/adoption-in-british-columbia>.

<sup>2</sup> Adoption Management System, 8 Dec. 2017.

<sup>3</sup> Ministry of Children and Family Development, *2017/18-2019/20 Service Plan* (British Columbia, February 2017), p. 12.

<sup>4</sup> Ministry of Children and Family Development, *2015/16-2017/18 Service Plan* (British Columbia, February 2016), p. 15.

<sup>5</sup> Ministry of Children and Family Development, *2016/17-2018/19 Service Plan* (British Columbia, February 2015), p. 17.

The decline in adoption placements this fiscal year follows a period of marked improvement for MCFD in the two years immediately following RCY's initial report on the adoption system.

On April 17, 2015, the ministry committed to achieving 600 adoptions over the two-year period 2014/15 to 2015/16. MCFD, in fact, exceeded that target with a total of 644 adoption placements.<sup>6</sup>

For 2016/17, the ministry significantly changed its target – both in terms of numbers and what it was counting. Rather than focus solely on adoptions as a permanency measure, MCFD chose to include transfers of custody of a child into a permanent home under s. 54.01<sup>7</sup> and s. 54.1<sup>8</sup> of the *Child, Family and Community Service Act (CFCS Act)* in its revised permanency goal-setting for that fiscal year.

The ministry's stated target for 2016/17 was to *"find forever homes for 600 children and youth – not only through adoption, but also permanency options. These include placements with grandparents and other family members."*<sup>9</sup>

For the 2016/17 fiscal year, MCFD again exceeded its goal – with adoptions and transfers of custody added together. MCFD placed 284 children and youth for adoption and 541 through a permanent transfer of custody, for a cumulative total of 825 permanency placements.<sup>10</sup>

However, that trend does not appear to be continuing in 2017/18. As of Sept. 30 of this year, only 208 children in B.C. had been placed in homes via permanent transfer of custody orders. Comparatively, 297 permanent transfer of custody orders were completed at the same point last year. Therefore, no matter how permanency is accounted for, the overall results in 2017/18 lag behind the pace of the previous fiscal year.

The March 2017 factsheet released by MCFD said: *"the ministry has placed a special emphasis on finding permanent homes for Aboriginal children in care – through adoption, guardianship and other permanency options – in culturally appropriate ways."*<sup>11</sup>

That special emphasis does not appear to be paying off in more placements of Indigenous children, however. As previously noted, far fewer Aboriginal children are being adopted this fiscal year to date. And Aboriginal children placed in homes by way of a transfer of custody totalled 131 during the first six months of 2017/18, also off the pace of the previous year. Meanwhile, not a single Indigenous

<sup>6</sup> Ministry of Children and Family Development, "B.C. exceeds adoption target with 644 kids finding forever homes" (British Columbia, 21 April 2016), <https://news.gov.bc.ca/releases/2016CFD0018-000620>.

<sup>7</sup> Under s. 54.01, an order can be made to permanently transfer custody of a child or youth from the biological parent(s) to another person. Prior to the transfer, the child or youth would have temporary out of care status, and would reside with the proposed guardian(s) for at least six consecutive months immediately before application is made for an order to transfer custody under s. 54.01. See *Child, Family and Community Service Act 2017*, [http://www.bclaws.ca/EPLibraries/bclaws\\_new/document/ID/freeside/00\\_96046\\_01#section54.01](http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/00_96046_01#section54.01).

<sup>8</sup> Under section 54.1, an order can be made to permanently transfer custody of a child or youth from the care of the Director (under a Continuing Custody Order) to a person other than the child or youth's biological parent(s). The child or youth must live with the proposed guardian(s) for at least six consecutive months immediately before application is made for an order to transfer custody under s. 54.1. See *Child, Family and Community Service Act 2017*, [http://www.bclaws.ca/civix/document/id/consol23/consol23/00\\_96046\\_01#section54.1](http://www.bclaws.ca/civix/document/id/consol23/consol23/00_96046_01#section54.1).

<sup>9</sup> Ministry of Children and Family Development, "FACTSHEET, Adoption in British Columbia" (British Columbia, 3 March 2017), <https://news.gov.bc.ca/factsheets/adoption-in-british-columbia>.

<sup>10</sup> The total number of permanency placements does not include the number of children or youth reunified with parents.

<sup>11</sup> Ministry of Children and Family Development, "FACTSHEET, Adoption in British Columbia" (British Columbia, 3 March 2017), <https://news.gov.bc.ca/factsheets/adoption-in-british-columbia>.

## Introduction

child or youth in care in B.C. has ever been adopted through custom adoption despite legislation in place to permit that since Dec. 31, 1996. The Representative also finds this troubling and endorses recommendations made by Grand Chief Ed John calling on the province to provide a mechanism to register Indigenous custom adoptions and ensure that all custom adoptions are eligible for post-adoption services and pay rates similar to other adoptions.

### Custom Adoption

There is no single, concise definition or approach to custom adoption, as practices vary across Indigenous communities. Custom adoption is a broad term used to describe “the cultural practices of Aboriginal peoples to raise a child, by a person who is not the child’s parent, according to the custom of the First Nation and/or the Aboriginal community of the child.”<sup>12</sup> Contrary to western notions of adoption, connections to the birth family and community are maintained in custom adoption.<sup>13</sup> MCFD has identified actions to address custom adoption as part of the ministry’s Multi-Year Action Plan (2017-2020).

The lack of permanency for Indigenous children and youth is particularly troubling when one considers that Indigenous children and youth comprise 64 per cent of all children and youth in care in B.C.

The Representative does note that progress has been sustained on some fronts in the provincial adoption and permanency effort. For example, 179 adoptive families were newly approved by MCFD in the first six months of this fiscal year. This is slightly above pace when compared to the previous entire fiscal year (354 homes approved) but behind 2015/16 (440 homes approved). The total number of adoptive homes registered in B.C., at 233, is also up slightly from 2015/16 (231) and well above 2016/17 (199).

However, the bottom line is that more than 1,000 children in the care of the provincial government were waiting for adoption when RCY’s initial report was released in 2014. As of Sept. 30, 2017, a total of 1,003 children in care were waiting for adoption. This is despite the fact that there are over 200 fewer children in permanent care in B.C. than there were in 2015/16.

Data for this report was pulled Oct. 2, 2017 from the Adoptions Management System (AMS) and MCFD’s Corporate Data Warehouse, unless otherwise stated. Transfer of custody numbers were requested from MCFD through a data request.

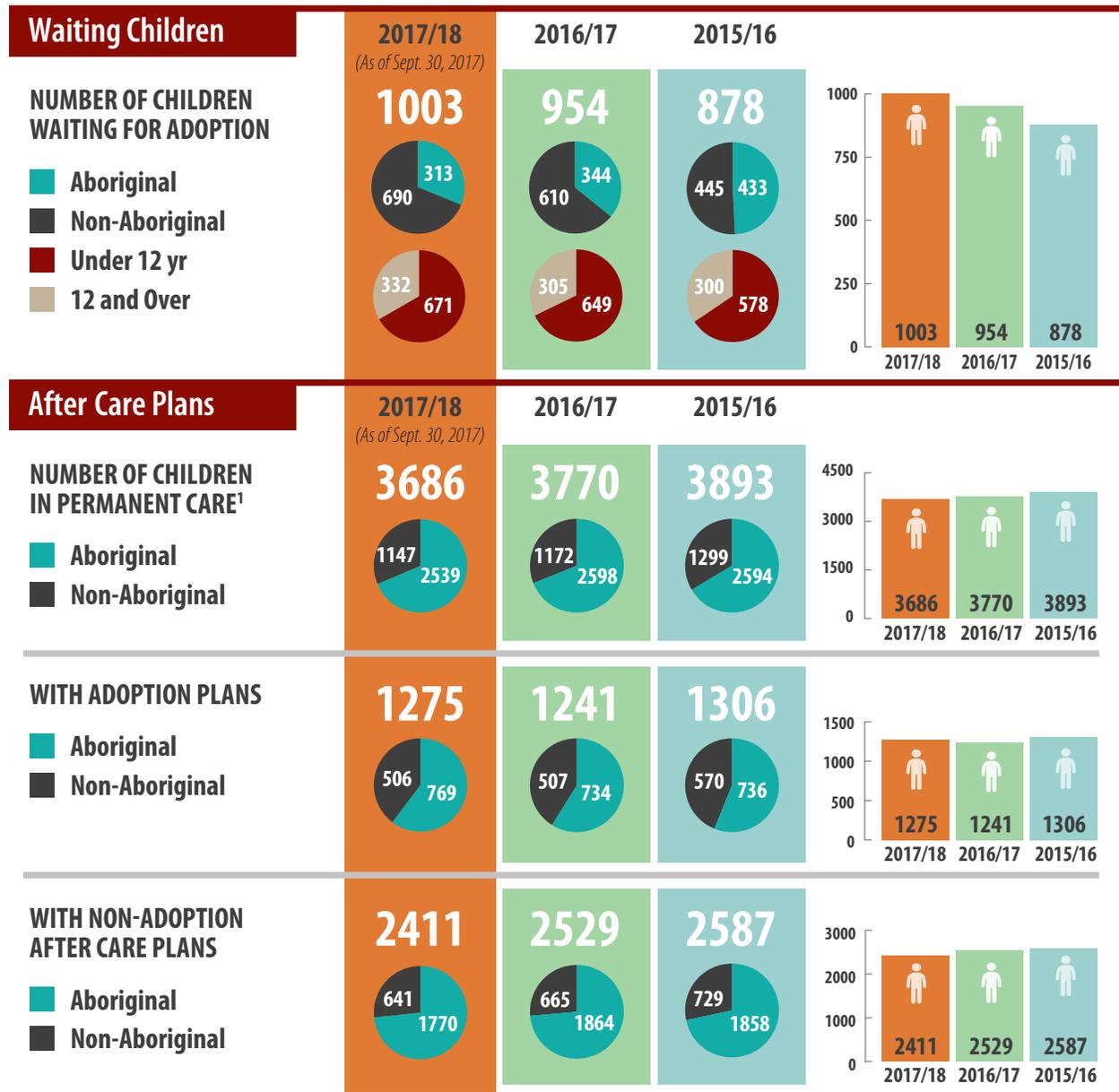
Included in this *B.C. Adoption Update* are key adoption and permanency statistics for the current fiscal year to date – as well as for the two previous fiscal years in total.

<sup>12</sup> Marilyn Poitras and Norman Zlotkin, *An Overview of the Recognition of Customary Adoption in Canada* (Saskatoon: Saskatchewan First Nations Family and Community Institute, 15 February 2013), p.6.

<sup>13</sup> Dawn Thomas-Wightman, “Moving forward: Identifying barriers and pathways to permanency for Indigenous children and youth in British Columbia through custom adoption” (master’s thesis, University of Victoria, 2016).

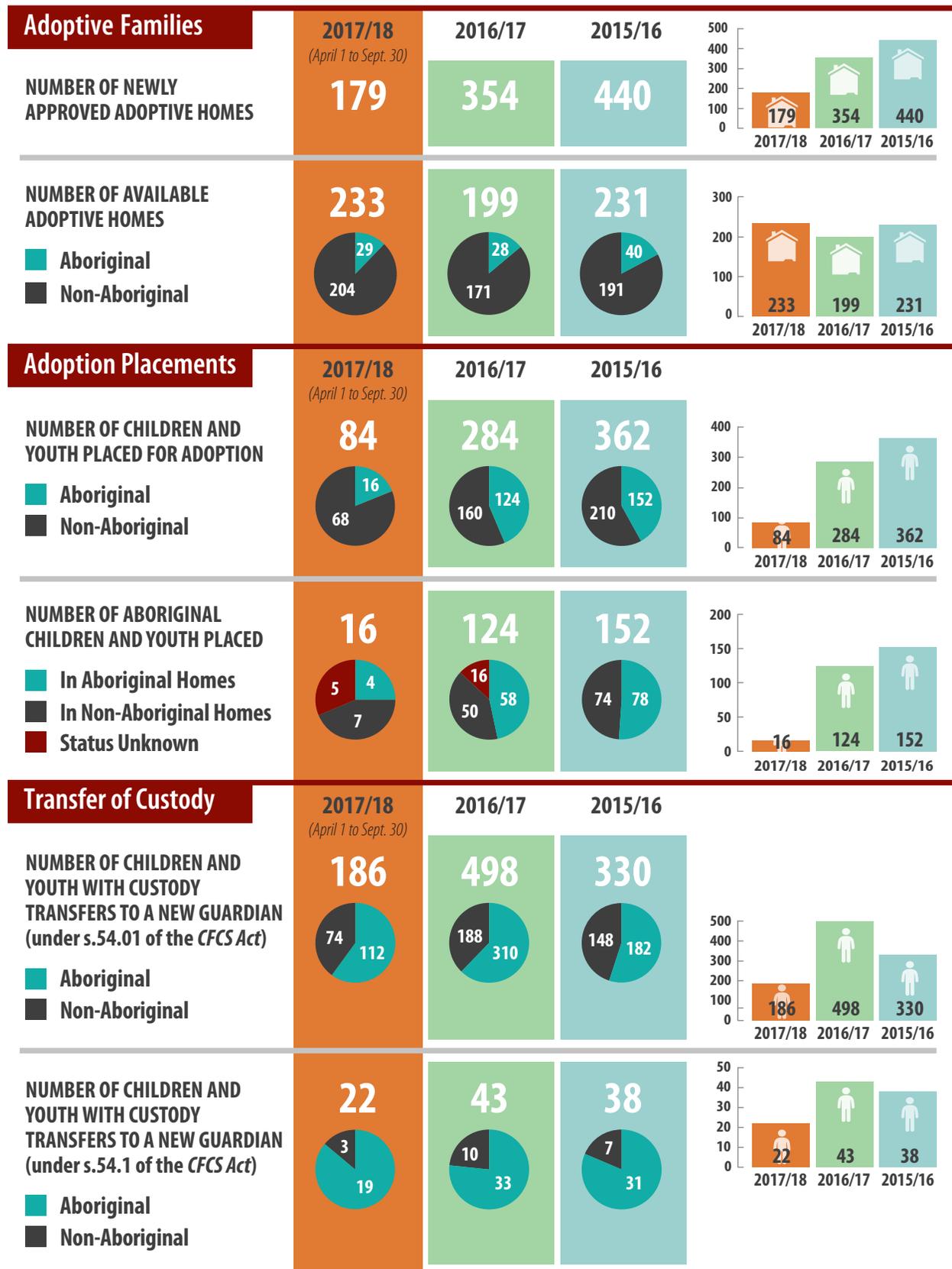
# Appendix A

## B.C. Adoption Update – December 2017



Source: Adoptions Management System and MCFD Corporate Data Warehouse portal.  
 Note: Adoption figures were extracted from AMS on Oct. 2, 2017 at approximately 9 a.m.  
 Transfer of custody numbers were provided to RCY by MCFD on Oct. 17, 2017.

<sup>1</sup> Permanent care includes children and youth in the adoption residency period.



## Appendix B – Alternative Permanency Options to Adoption

### Permanent Transfer of Custody

- Under section 54.01 of the *CFCS Act*, an order can be made to permanently transfer custody of a child from the parent(s) to another person. Prior to the transfer, the child or youth would have “temporary out of care” status, and would reside with the proposed guardian(s) for at least six consecutive months immediately before an application was made for an order to transfer custody under s. 54.01.
- Under section 54.1 of the *CFCS Act*, an order can be made to permanently transfer custody of a child from the care of the Director (under a Continuing Custody Order) to a person other than the child’s or youth’s biological parent(s). Prior to the transfer, the child or youth would reside with the proposed guardian(s) for at least six consecutive months immediately before an application can be made for an order to transfer custody under s. 54.1.
- MCFD procedures for Permanent Transfer of Custody under Section 54.01 (Policy 4.5)<sup>1</sup> and Permanent Transfer of Custody under Section 54.1 (Policy 4.6)<sup>2</sup> state that *“Before considering the permanent transfer of custody under [Section 54.01 or Section 54.1], explore other permanency options and determine whether they are in the child/youth’s best interest, including: adoption, custom adoption, relative adoption, or transfer of guardianship under FLA.”*<sup>3</sup>

### Family Law Act Guardianship Applications for a Child Under a *CFCS Act* Custody Order

The non-custodial parent or another person can submit a guardianship application under the *Family Law Act (FLA)* to be heard with a *CFCS Act* court proceeding. MCFD procedures state that no position should be taken on the FLA application in cases where the Director is working toward reunification with the parent from whom the child or youth was removed.<sup>4</sup> If the child or youth cannot be returned to the parent from whom they were removed, MCFD will conduct an assessment to determine whether or not the FLA application will be supported. There is no residency period required before an application for guardianship can be made under the *FLA*.

<sup>1</sup> Ministry of Children and Family Development, *Child and youth safety and family support policies* (British Columbia, 2017).

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> Ministry of Children and Family Development, *Child protection response policies* (British Columbia, 2017).

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