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NUTAQQANUT INULRAMIRNULLU
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Submission to the Department of Justice on the Family Law Review

August 13, 2021

As the Representative for Children and Youth, I am pleased to provide this submission to the Department of Justice on the department's review of Nunavut's family laws: the *Family Law Act*, the *Children's Law Act*, and the *Marriage Act*.

This submission is written on behalf of the Representative for Children and Youth's Office (RCYO) and is informed by the United Nations *Convention on the Rights of the Child*,¹ an international human rights agreement that sets out the rights of young people and the obligations that governments have in supporting these rights. Canada, as a signatory to the United Nations *Convention on the Rights of the Child*, has agreed to uphold child rights, making it necessary for all levels of government, including the Government of Nunavut, to take steps to include child specific rights in legislation in order to best support young people.

It is the role of my office to take every opportunity to ensure that the best interests of young people and their rights are at the forefront of all government initiatives. The RCYO makes these recommendations to the Department of Justice in support of young people's rights and in accordance with our legal duty to make recommendations on child and youth-related legislation, pursuant to section 3 of the *Representative for Children and Youth Act*.²

This submission restates the questions posed in the Department of Justice's letter dated June 8, 2021, in bold with RCYO responses provided below.

1. How familiar are you with the Nunavut's family laws and family justice system?

Our familiarity with Nunavut's family laws and family justice system is limited.

Our individual advocacy team has been involved with a number of cases related to family law matters that involved services from the Government of Nunavut or the Legal Services Board:

- i. The Department of Family Services apprehended a child from a parent due to child protection concerns. The Department of Family Services did not involve the child's other parent, who was living out-of-territory but had joint custody through a court order which entitled the parent to equal access.
- ii. A non-custodial parent reported child protection concerns to the Department of Family Services. The department considered the situation to be a 'custody battle' and did not investigate the concerns until the RCYO became involved.
- iii. A parent moved out of the family home following a separation. The children contacted this parent with child protection concerns, who then reported the concerns to the Department of Family Services. Again, the Department of Family Services considered this a 'custody battle'. The parent then contacted the RCYO. Our office assisted the family in obtaining family mediation that resolved the situation.
- iv. A parent contacted the RCYO for assistance in seeking legal aid regarding a child support matter. Our office worked with the parent to set up a meeting with legal aid.

- v. A parent reached out to the RCYO seeking support in relation to the custody of their child. The parent agreed to work with the RCYO to access legal support on the custody matter but our office was unable to reach them after their initial meeting.

Within our systemic advocacy program, we do not currently have any systemic issues connected to the *Family Law Act*, the *Children's Law Act*, the *Marriage Act*, or related services.

2. What are your thoughts regarding the current family justice system in Nunavut?

The Representative for Children and Youth (Representative) does not provide legal counsel and does not have powers or duties relating to private relationships, such as matters of separation. Further, the Representative does not have authorization to review orders, decisions, or omissions of a court, judge, or justice of the peace. The RCYO's work focuses on ensuring that children and youth are receiving services from the Government of Nunavut that meet their needs and support their rights.

As noted in the response to Question #1, the RCYO's experience with matters concerning the family justice system relate to the services offered by Community Social Services Workers with the Department of Family Services or the Legal Services Board. The RCYO fully supports the Department of Justice's review of the current family justice system to modernize and strengthen legislation and services to better meet the needs of children, youth, and their families.

3. How effective do you feel the family justice system is at responding to family breakdown?

In one case noted above, a family the RCYO worked with had success with mediation services. However, given that our familiarity and experience with the family justice system is limited, we cannot comment on the effectiveness of the family justice system.

4. What changes would you like to see in the family law legislation?

Family Law Act

The *Family Law Act* references minors or children in a number of sections in the legislation. Under subsection 7(2), minors have the capacity to enter into a domestic contract, such as agreements related to cohabitation, separation or parenting, or a marriage contract, subject to the approval of a court. Section 36, which speaks to equalization of net family properties, lays out that the court vary or award a spouse's entitlement if the court is of the opinion it would be unconscionable not to do so with regard to of a number of factors. One of these factors is the needs of the children of a spouse and financial responsibility related to their care and upbringing. Subsection 55(3) requires that, when determining whether to make an order for exclusive possession of the family home, the court consider six criteria, two of which are "the best interests of the children affected" and "any

violence committed by a spouse against the other spouse or children.”³ In subsection 58(3) of the legislation, a mediator shall confer with the parties and “with the children if the mediator considers it appropriate to do so”.⁴ Section 59 states that a court may make a restraining order to restrain a person from molesting, annoying, or harassing children in the applicant’s lawful custody, or communicating with them, except as the order provides. Finally, subsection 63(3) states that a minor who is a spouse may make an application to a court without a next friend and may respond without a guardian *ad litem*, effectively allowing a minor who is a spouse to act on their own behalf in proceedings related to the *Family Law Act*.

In the current *Family Law Act*, a minor who intends to marry upon reaching 19 years of age could presumably still enter into a marriage contract before they reach 19 years of age whether or not the *Marriage Act* allows minors to marry.

Recommendation #1: The Department of Justice amend the *Family Law Act* to set a minimum age for entering a marriage contract of at least 19 years of age.

The sections of the *Family Law Act* that make mention of minors or children appear to support child rights as laid out in the United Nations *Convention on the Rights of the Child*. These child rights include Article 3, protection of the best interests of the child; Article 12, the right of a child to have their opinion heard and considered; and Article 19, the right to be protected from all forms of abuse and neglect. The *Family Law Act* contains provisions that protect children and minors in its current form, and any changes made to the Act should maintain and strengthen those protections.

Recommendation #2: That the Department of Justice align the *Family Law Act* with the federal *Divorce Act* with respect to sections of the legislation that speak to spousal support.

Recommendation #3: That the Department of Justice amend section 58(3) of the *Family Law Act* to require that a mediator confer with children during mediation unless the mediator determines that doing so is contrary to the children’s best interests.

Children’s Law Act

Assisted reproduction

In its current form, the *Children’s Law Act* is silent on the rules of parentage for children conceived through assisted reproduction, including surrogacy. Subsection 2(1) and (2), in Part I of the *Children’s Law Act*, states that a person can only be the child of their “natural parents” or when an adoption order is made under the *Adoption Act*. The *Children’s Law Act* does not contain separate parentage provisions for determining parentage in cases of assisted reproduction, assisted reproduction after death, surrogacy, and other arrangements.

It is in the best interests of any child born as a result of these arrangements to have their legal parentage established without delay. This provides stability and legal certainty, and ensures that the appropriate persons have the authority needed to care for their children and make all necessary decisions, as well as the duty to provide them with care, support, and protection. Children born as a

result of assisted reproduction should have equal status with other children under Nunavut's family law legislation and should benefit from the same protections.

Assisted reproduction is essential to LGBTQ2S+ individuals, single parents, and those experiencing infertility. In other Canadian jurisdictions, courts have held that it is discriminatory under the *Canadian Charter of Rights and Freedoms (Charter)* to treat same-sex couples who conceive through assisted reproduction differently from other couples with respect to parentage and birth registration. Similarly, failing to address the gaps for children conceived through assisted reproduction may be discriminatory under the *Human Rights Act* or the *Charter* based on the child's family status.

Divorce Act

The changes to the federal *Divorce Act*, which came into effect earlier this year, make this legislation more responsive to children's needs by promoting their best interests, using child-focused terminology, and addressing family violence.⁵ The changes include requiring courts to consider only the best interests of the child when making decisions about parenting and contact orders, and prioritizing a child's safety, security, and well-being above all other considerations, such as when there are two best interest criteria that may be in conflict. The *Divorce Act* also has significant enforcement tools regarding child support, which reduces child poverty.

As the Department of Justice knows, the federal *Divorce Act* applies only to married families who are separating, while the territorial *Children's Law Act* applies to unmarried/common-law families who are separating. The *Children's Law Act* does speak to the best interests of the child and there is a considerable amount of overlap between the two pieces of legislation on this topic. However, there are differences; for example, the *Children's Law Act* and *Divorce Act* have similar wording regarding considering a child's cultural, linguistic, and spiritual upbringing or ties in determining best interests, but the *Divorce Act* further specifies that this includes the child's "Indigenous upbringing and heritage".⁶

The *Divorce Act* has also changed terminology to 'decision making and parenting-time' from 'custody', and 'parenting time' instead of 'access', which family law academics have noted helps reduce parental conflict and supports the best interests of the child.⁷

The *Divorce Act* had previously been silent on family violence but now includes a broad definition of family violence and clarifies that family violence does not have to be a criminal offence to meet the definition of family violence under the Act. The *Divorce Act* also requires that a court consider family violence when deciding parenting arrangements and the child's best interests. Further, courts also need to consider any other proceedings or orders involving any of the parties; for example, if one of the parties is under an order made by a criminal court. These changes are important measures in addressing family violence, particularly when considering that separation

can be a particularly risky time for spousal violence.⁸ As we have previously flagged to the Department of Justice,^a children living in homes where there is violence face the following:

- An increased risk of becoming victims of abuse themselves;
- A significant risk of ever-increasing harm to their physical, emotional, and social development;
- An increased likelihood of being affected by violence as adults, either as victims or as perpetrators.⁹

It is possible that situations will arise where there may be concurrent child protection proceedings and family law proceedings, such as when there are allegations of child neglect during a period of separation. The *Children's Law Act* states that any evidence of an 'act of violence' is a 'further consideration' of the court when determining best interests of the child, and a person's past conduct may be considered if the court considers it relevant to their ability to act as a parent. Subsection 16(4) of the *Divorce Act* provides the court with a non-exhaustive list of factors relating to family violence that the court must consider when determining the best interests of the child. One of these factors is "any civil or criminal proceeding, order, condition, or measure that is relevant to the safety, security and well-being of the child."¹⁰ The wording of the *Divorce Act* appears to take a broader approach with respect to ensuring the court considers child protection concerns and proceedings when making decisions regarding the custody or access of a child and not just an 'act of violence'.

As the Department of Justice noted in their letter dated June 8, 2021, Nunavut's current family laws do not address relocation, although the current *Divorce Act* sets out a process for when a parent wants to relocate with the child.^b

Recommendation #4: Expressly include commitment to the United Nations *Convention on the Rights of the Child* as a guiding principle in the administration and interpretation of the *Children's Law Act*.

Recommendation #5: The Department of Justice amend the *Children's Law Act* to add provisions for determining parentage in situations of assisted reproduction, assisted reproduction after death, surrogacy, and other arrangements.

Amendments made as a result of Recommendation #5 should reflect the principle that the best interests of the children born as a result of these arrangements is paramount. A person's intent to conceive and parent should be a primary consideration in determining parentage, and a person who provides biological material for use in assisted reproduction should not be considered to be a

^a The Representative for Children and Youth's February 2021 submission on the *Family Abuse Intervention Act*.

^b Before relocating themselves or the child, anyone who has parenting time or responsibility for decision-making must provide notice at least 60 days before relocation to any other person who has parenting time, responsibility for decision-making, or contact with the child. This notice must include the expected date of relocation, address of the new place of residence and contact information, as well as a proposal as to how to exercise parenting time, decision-making responsibility, or contact.

parent of the child for that reason only. The Department should consider implementing non-judicial processes for establishing parentage to the extent possible where parentage is undisputed. Procedures for birth registration should be consistent with the new provisions for parentage.

Recommendation #6: The Department of Justice align the *Children’s Law Act* with the federal *Divorce Act* with respect to promoting the best interests of the child.

Recommendation #7: The Department of Justice align the *Children’s Law Act* with the federal *Divorce Act* with respect to family violence considerations.

Recommendation #8: The Department of Justice amend the *Children’s Law Act* to use the child-focused terminology currently used in the federal *Divorce Act*.

Recommendation #9: The Department of Justice align the *Children’s Law Act* with the federal *Divorce Act* with respect to sections of the legislation that speak to child support.

Recommendation #10: The Department of Justice address relocation in the *Children’s Law Act* to align with the relocation process set out in the federal *Divorce Act*.

Article 12 of the United Nations *Convention on the Rights of the Child* states that any child capable of forming an opinion has the right to express their opinion freely in all matters affecting them, particularly in any judicial or administrative proceedings. The opinion of the child is given due weight in accordance with their age and maturity. Children are individuals with opinions and feelings of their own, and those who are making decisions that affect their lives must consider the child’s voice.¹¹

Subsection 39(1), in Part III of the *Children’s Law Act*, speaks to dispensing with consent of a parent to medical treatment of a minor that is required by law when the consent is refused or otherwise not attainable. Through our work, we know that some minors are able to provide consent on their own behalf, so long as the healthcare provider treating the minor considers them to be of sufficient maturity to do so. The criteria that must be met in order for a healthcare provider to consider a young person a mature minor are that they are able to understand the medical treatment being offered, that they understand the possible consequences, and that they are able to give their fully informed and voluntary consent to the healthcare provider.¹²

Recommendation #11: The Department of Justice amend subsection 39(1) of the *Children’s Law Act* to more explicitly recognize that a minor does not require parental consent to obtain or refuse medical treatment if the minor is capable of consenting and considered a mature minor.

Subsection 39(3) of the *Children’s Law Act* states that, “the court may, in an application under subsection (1), hear representation by or on behalf of the minor where it is practical to do so.”¹³ Section 83 of the legislation speaks to a child’s entitlement to be heard when a court considers an application under Part III of the *Children’s Law Act*, and requires that the court, where possible, take into consideration the views and preferences of the child to the extent they are able to express them. It appears that while section 83 supports a child’s right to be heard, where possible, in any

application under Part III of the legislation, which includes section 39, suggests more limited opportunities for a child to be heard in the specific situation of dispensing with consent of parent to medical treatment of the child.

Recommendation #12: The Department of Justice repeal subsection 39(3) of the *Children’s Law Act* so that a child’s right to be heard as set out in section 83 applies with respect to all applications made under Part III of the *Children’s Law Act*.

Marriage Act

UNICEF defines child marriage as any formal or informal union between a child under the age of 18 and another child or an adult, and states: “child marriage threatens the lives, well-being and futures of girls around the world.”¹⁴ The United Nations Sustainable Development Goals calls for global action to end child marriage by 2030, calling it a human rights violation. Girls who marry before the age of 18:

- Are more likely to experience domestic violence;
- Are less likely to remain in school;
- Have worse economic and health outcomes than their unmarried peers; and
- Often become pregnant during adolescence, increasing the risk of pregnancy and childbirth complications.¹⁵

Nunavut’s *Marriage Act* defines a minor as a person under 19 years of age. The *Marriage Act* allows a female under 15 years of age to be issued a marriage license and be married if she is pregnant or with written permission of the Minister.^c However, the federal *Civil Marriage Act*, which prevails over the territorial legislation, sets the minimum age for marriage at 16 years of age in Canada. Although the federal legislation protects all children under 16 years of age from being married, despite Nunavut’s *Marriage Act*, it still supports child marriage – contrary to Canada’s work to raise awareness and generate action “to end this harmful practice”.¹⁶

Nunavummiut have demonstrated that the provisions for the marriage of a minor are no longer widely socially accepted or practiced. Between 2000 and 2018, there were three marriage licenses issued to minors in Nunavut, of which all three minors were girls 17 years of age¹⁷ to marry a person more than 19 years of age. The current provisions in the Act pertaining to the marriage of minors, raises concerns regarding coercion or forced marriages in connection with the consent provisions, which allow for a marriage to have taken place without consent when certain other criteria are met, such as consummation. Further, the Act includes provisions that disproportionately affect girls; for example, 48(5) allows for a judge to order an examination of both or either party to “submit to a physical examination by a medical practitioner” to ascertain whether or not the marriage was consummated. To eliminate child marriages in Nunavut, the RCYO makes the following recommendation:

^c Provided the requirements of the *Marriage Act* are met respecting consents to the marriage of minors.

Recommendation #13: The Department of Justice amend the *Marriage Act* to set a minimum age for marriage of at least 19 years of age and repeal sections 43, 44, 45, 46, and 48 of the *Marriage Act*.

5. Do you have any comments with respect to the specific topics under review? See Appendix A for a breakdown of the specific topics.

Our response to Question #4 referenced the majority of the topics outlined in Appendix A. In addition to the recommendations made above, we do support the Department of Justice proposing new legislation that encourages out of court dispute resolution and that promotes the role of written agreements to avoid the need for families to go to court.

One of the topics the Department of Justice is reviewing in relation to the family law review is conduct orders, which are part of British Columbia's family law. A conduct order is "an order a judge can make to help prevent disputes or resolve underlying problems in a family law matter."¹⁸ The Department of Justice's letter dated June 8, 2021, notes that conduct orders could require individuals to attend mediation or counselling. Other examples of conduct orders include prohibiting a spouse from cancelling utilities at a family residence, or setting limitations or conditions on communication between spouses.¹⁹ As an additional tool to reduce family violence during separation, conduct orders have the potential to support the best interests of a child and protect children from harm or violence. For this reason, the RCYO supports the Department of Justice including conduct orders in new legislation. However, to be successful the Department of Justice would need to ensure employees have training on conduct orders and that information about the availability of these orders is easily accessible and publicized. Further, in order for Nunavummiut to benefit from conduct orders, the Government of Nunavut needs to have the types of services that could be included in an order available, such as counselling and mediation.

6. What barriers do you think exist for Nunavummiut to access the family justice system? How can supports be made more accessible?

In one individual advocacy case our office worked on, noted in the response to Question #1, a parent required assistance regarding the custody of their child and was not aware of their ability to seek legal aid. This case demonstrates the importance of ensuring information is widely available and accessible. Recommendations #14 and #15, included in the response to Question #8, speak to the importance of providing information on separation, divorce, and the family justice system.

In the RCYO's 2018-2019 Annual Report, our office stated, "Policy makers cannot identify the barriers to fulfilling children's rights if they do not hear from children about the existence and nature of those barriers."²⁰ The same can be said regarding identifying barriers to accessing the family justice system. The family law review and accompanying community consultations provide

the Department of Justice an opportunity to engage young people in discussion and hear what barriers they face to accessing the family justice system.

Recommendation #14: That the Department of Justice engage young people in community consultations related to the family law review.

In our June 2021 appearance before Standing Committee on Oversight of Government Operations and Public Accounts, I spoke of the importance of baseline information to inform decisions. Determining the barriers that exist to accessing the family justice system may be found in information the Department of Justice already has in its possession, for example by determining which supports are often used and which are not.

7. What do you think is needed in Nunavut to ensure the needs of families upon breakdown can be met within the family justice system?

Each family experiencing breakdown is unique, with different strengths, weaknesses, and needs. However, research has shown that there are significant potential losses that may occur following parental divorce, and a child may:

- Lose time with each parent. For example, seeing a non-custodial parent less or a custodial parent having to work longer hours to support the family;
- Lose economic security. For instance, children living with single mothers are more likely to live in poverty than children living with both parents;
- Lose emotional security. For example, having a weakened relationship with the parents of the non-custodial parent (the child's grandparents);
- Have decreased social and psychological maturation. Anxiety or depression seem to worsen after parental divorce; and
- Be less physically healthy. One study noted that the relative risk of abuse or neglect more than doubled for children from a single-parent family.²¹

Ensuring that the best interests of the child are at the forefront of the decisions made by the family justice system, and connecting children, youth, and their families with appropriate resources and support is key to meeting needs following family breakdown. In the RCYO's report *Our Minds Matter: A Youth-Informed Review of Mental Health Services for Young Nunavummiut*, the RCYO recommended the development and implementation of an interdepartmental service coordination protocol for the delivery of child and youth-related services.²² The family justice system's collaboration with other government departments, such as the Department of Health or Department of Family Services, is key to ensuring that service providers connect young people and their families the mental health, financial, or other supports they may require upon family breakdown.

In the past, our office has met with the Department of Justice and has raised the importance of child-friendly court, for instance as connected to children or youth testifying in child abuse cases. While we know that changes in family law in Canada have focused, in part, on increasing out of court dispute resolution, a child or youth may be involved with the court in a family justice situation. We encourage the Department of Justice to extend any strategies regarding child-friendly court to these children as well, such as providing a tour of the courtroom setting to the child or having the child sit in the witness box before the court session, to establish comfort.

8. Do you think educational materials, services or programs currently offered are adequate for families? If not, what would be helpful?

Our response to Question #1 noted that the RCYO's familiarity with the family justice system is limited. An online search demonstrated that there is information about the Department of Justice's Mediation Program on the Department of Justice's website. There are resources for children on this website, which include:

- Guides to separation and divorce for kids and teenagers from the Justice Society of British Columbia. Although this website provides a dropdown list of Canadian provinces and territories, the information does not appear to differ between jurisdictions and is not tailored to young Nunavummiut
- A link to 'Kids in the Middle', a non-profit agency based in St. Louis, Missouri. The Department of Justice's website states that the "kids page includes a book list and children's bill of rights".²³ Our office was not able to retrieve this information. Further, this website focuses heavily on counselling that Kids in the Middle offers children and families. It is unlikely that this organization would be of benefit to children and families in Nunavut as Kids in the Middle's counselling services are located in the United States.
- A link to a website titled 'PBS Kids – It's My Life', with the Department of Justice noting that this site contains information for kids about separation and divorce, including a 'dealing with divorce' quiz. This website is no longer available.

These websites are not tailored to young Nunavummiut, yet they demonstrate that it is possible to offer child-friendly information to young people about separation and divorce. A Nunavut-focused website, available in all official languages of the territory that provides plain language information about separation and divorce, the family justice system, and resources for children, youth, and their families is needed. As evidenced by the Department of Health's website dedicated to sexual health at www.iRespectMyself.ca, it is possible to develop a plain-language, Nunavut-focused website with contact information and relevant resources in Nunavut's four official languages. Any information about

the family justice system, separation, or divorce should use gender-neutral and inclusive terms, such as parents, and not 'mom' and 'dad'.^d

Recommendation #15: That the Department of Justice create a website specifically for children, youth, and their families with Nunavut specific information on the family justice system, separation and divorce, and other relevant resources.

Nunavut is the only Canadian jurisdiction without access to broadband internet delivered by fiber-optic cable, and internet access is slow, unreliable, and frequently not able to meet demand. Further, when looking at percentages of households subscribing to internet, Nunavut has the lowest rate of any jurisdiction in Canada at 67.3%, compared to the national average of 84.6%.²⁴

Recommendation #16: That the Department of Justice also ensure that any child or youth-focused information on the family justice system is also widely available in hard copy.

9. How can the family justice system be amended to better reflect Inuit societal values and family relationships?

The Representative is required to guide their work by the same eight Inuit societal values (ISVs) that guide the Government of Nunavut departments. As mentioned in the introduction, the United Nations *Convention on the Rights of the Child*²⁵ informed this review of the family justice system. Our office has found that there are complementary principles between ISVs and the United Nations *Convention on the Rights of the Child*. The complementary principles and their connection to the recommendations made in this submission include:

^d The RCYO reviewed a copy of the Government of Nunavut's *Family Mediation Activity Book*. This resource has helpful information for children 7 to 12 years of age, such as the 'Children's Divorce Bill of Rights'. Although the book primarily used the term 'parent', one of the activities was 'questions for mom' and 'questions for dad'.

ISV	United Nations <i>Convention on the Rights of the Child</i>	Recommendation
Aajiiqatigiinniq encourages decision making through discussion and consensus	Article 12: Young people have the right to give their opinion and for adults to listen and take it seriously	2, 10, 11
Pijitsirniq is about serving and providing for family and community. It is about leading through doing for other people. It is about serving others for the greater good.	Article 3: All adults should do what is best for young people. When adults make decisions, they should think about how their decisions will affect young people.	1, 4, 5, 6, 7, 8, 9, 12, 14, 15
	Article 4: The government has a responsibility to make sure the rights of young people are protected. They must help families protect the rights of young people and create an environment where young people can grow and reach their potential.	1, 3

In addition to considering the complementary principles above, the RCYO encourages the Department of Justice to consult with the Department of Culture and Heritage, regional Inuit organizations, and Nunavut Tunngavik Incorporated on this question.

10. Are there any other thoughts or suggestions regarding Nunavut’s family laws or family justice system you would like to share?

Section 83 of the *Children’s Law Act* speaks to a child’s entitlement to be heard for applications related to custody, access, and guardianship, stating, “The child is entitled to be advised by and to have his or her counsel, if any, present during the interview”.²⁶ In the past, the Legal Services Board had advised our office that it does not assign lawyers to children under 12 years of age. While this may be a practice issue, and not legislative in nature, our office supports children having access to legal representation whenever possible, and not at a minimum age. We encourage the Department of Justice to work with the Legal Services Board to ensure young people are provided appropriate legal representation when involved with the family justice system.

11. Should a Clare's Law be considered for Nunavut?

Considering that Nunavut has the highest rate of family violence ^e in Canada, ²⁷ a focus on protecting victims and preventing acts of family violence is needed. A review of other jurisdictions and countries who adopted Clare's Law demonstrates how this law can help people access information they need to make informed decisions about their safety and the safety of their loved ones, although it is only one tool to reduce domestic and family violence. The information must be clear and delivered in a way that can help potential victims make informed choices about matters affecting their safety and that of their children.

Most arguments against Clare's Law are around the "right to privacy and the rehabilitation of offenders".²⁸ As an office that advocates for the protection and advancement of child rights, the RCYO believes that a violent offender's privacy should not be protected at the expense of a child's safety.

In order for Clare's Law to be of benefit to the well-being and safety of Nunavummiut, RCMP members must have appropriate training and the Department of Justice must have a network of services available to individuals whose safety is at risk. Services that provide housing, counseling, or victims' services must collaborate to ensure that services meet the needs of children, youth, and their families and that children are safe, secure, and protected. The RCYO has previously made a recommendation that would allow better interdepartmental service coordination.^f We strongly encourage the Government of Nunavut to implement this recommendation to ensure children and their families are fully supported when accessing Nunavut's family laws.

Recommendation #17: The Department of Justice develop legislation similar to Clare's Law, to protect potential victims and their loved ones from known offenders.

Conclusion

The RCYO makes this submission in the spirit of collaboration; and in support of *aajiiqatigiinniq*, decision making through discussion and consensus; and *pijitsirniq*, serving and providing for family and community. We also make this submission in support of child rights as laid out in the United Nations *Convention on the Rights of the Child*, particularly:

Article 3: The right to the protection of the best interests of the child;

Article 4: The right to the protection of children's rights;

Article 12: The right to have your opinion heard and considered;

^e The rate of police-reported family violence in Nunavut was 3,398 per 100,000 population. By comparison, Ontario had the lowest rate of family violence at 173 per 100,000 population.

^f Recommendation #14 of the Representative for Children and Youth's 2019 report titled *Our Minds Matter: A Youth-Informed Review of Mental Health Services for Young Nunavummiut*

Article 19: The right to be protected from all forms of abuse and neglect;

Article 24: The right to the highest attainable standard of health;

Article 39: The right to help if hurt, neglected, or abused;

Article 42: The right to know your rights.

Thank you for the opportunity to contribute to this important work. I look forward to following how the Department of Justice responds to these recommendations. I am available to meet with you to discuss the RCYO's submission or to provide more information about child rights and the work of our office.

Yours sincerely,



Jane Bates
Representative for Children and Youth

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- ¹ Office of the High Commissioner for Human Rights. (1989). *Convention on the Rights of the Child*. Geneva, CH: Office of the High Commissioner for Human Rights. Retrieved from <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>
- ² Representative for Children and Youth Act, S Nu 2013, c27. Retrieved from <https://www.nunavutlegislation.ca/en/download/file/fid/11264>
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