

Secwépemc Law of Stsmémelt and K'wséltkten



SECWEPEMCÚLECW



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The Secwépemc Law of Stsmémelt and Kw'séltkten was developed using a community driven, Nation based approach with the Stsmemelt Team with Shuswap Nation Tribal Council, Stsmemelt Technical Working Group and leadership from participating communities:

- Adams Lake (Sexqeltqin)
- Bonaparte (St'uxwtews)
- Esk'etemc (Esk'et)
- High Bar (Llenllene'y'ten)
- Neskonlith (Sk'atsin)
- Skeetchestn
- Splatsin
- Shuswap Band
- Tk'emlúps te Secwépemc
- Ts'kw'aylaxw
- Whispering Pines/Clinton (Stil'qw/Pelltiq't)

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PREAMBLE

Our children are the future of our Nation. The Secwépemc have supreme authority to govern our lands and resources, including making decisions using our laws for the benefit of our children and families.

The foundation of this law is our four pillars: language, culture, connection to land and laws, and healing.

PRINCIPLES OF SECWÉPEMC KW'SÉLTKTEN

1. Administration of this law shall be in accordance with Secwépemc traditions and values. These traditions and values are guided by the oral laws as contained within our Secwépemc stories handed down through generations of Secwépemc and shall include:
 - a. Responsibility to look after those who are vulnerable. (Story of Owl; White Arrow of Peace; Grouse Children)
 - i) Yecwmeníl'e (Guardian of Children)
 - ii) Xwexwéyt te Kw'séltkten (All My Relations)
 - iii) Knucwentsút-ce (Help Yourself)
 - iv) Knúcwentwecw (Help Each Other)
 - v) Kweséltknews (We Are All Related)
 - vi) Méllelc (Take Time For Yourself)
 - vii) Slexléxs (Development Wisdom)
 - b. Obligation for caregivers to look after children and tend to their needs. If the child is neglected or mistreated, there will be consequences. (Story of Owl; Grouse Children)
 - c. Caregivers have an obligation to teach children necessary life skills through a holistic approach that includes spiritual, mental, physical, and emotional needs being met. (Story of Owl)
 - d. Communities have an obligation to immediately help a vulnerable child. (Story of Owl)
 - e. A child has a right to belong and be integrated into the community. (Story of Owl)
 - f. Respect underlies all relationships among people, as well as between people and the environment. (White Arrow of Peace)
 - g. Cultural continuity is essential to the well-being of a child and a family. (Coyote and His Hosts)
 - h. Language, culture, practices, customs, traditions, ceremonies, and knowledge of Secwépemc history is an essential part of a Secwépemc child's life. (Coyote and His Hosts)
 - i. A child belongs with family and in the community. (Trout Children)
2. A primary objective is to facilitate healing and community support for children and families in their journeys.

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3. Secwépemc utilize this law in the implementation of the supreme authority and inherent rights of Secwépemc children and families.

JURISDICTION

4. The Secwépemc adopt this law through consensus, verified by a Band Council Resolution, or through acknowledgement by the Traditional Governing Body, where these governing bodies are operational in the community.
5. This law recognizes the supreme authority of the Secwépemc and is applicable to Secwépemc children and families regardless of their location. Secwépemc shall work in collaboration with other Nations where a child has family ties to more than one Nation to make decisions that are reflective of Secwépemc values, culture and traditions and that will benefit the child. The Stsmémelt Circle will also consider the teachings in the Story of Porcupine and be respectful to other Nations beliefs and traditions when making decisions.
6. This law is applicable to all signatory communities' children and families.
7. The Secwépemc shall work with the federal government, provincial government and delegated agencies to reach a Coordination Agreement, where no child or family is denied services during the transition period of Secwépemc jurisdiction replacing federal and provincial jurisdiction over children and families.
8. Any Secwépemc member involved in a child and family services matter can provide an exemption request to the Secwépemc Stsmémelt Circle if they do not wish to be governed by Secwépemc jurisdiction. The Secwépemc Stsmémelt Circle shall consider the request and provide consent where all reasonable factors are considered.

DECISION-MAKING BODY

9. For the purposes of this law, the decision-making body for all matters pertaining to child and family matters shall be the Secwépemc Stsmémelt Circle or Community Circle where operational.
10. The composition of the Secwépemc Stsmémelt Circle shall be no less than four members to be chosen by the signatory community representatives, based upon their skills, knowledge, and reputation in the community as being fair, trustworthy, and reasonable decision-makers.
11. The creation of the Secwépemc Stsmémelt Circle, including the members chosen, shall be endorsed by the Secwépemc by consensus and through the confirmation of a Band Council Resolution from each signatory community, or through endorsement by the Traditional Governing Body, where these bodies are operational in the community.
12. The Secwépemc Stsmémelt Circle shall be a nation-based circle and shall hear all matters related to children and family concerns.

13. In addition to the Secwépemc Stsmémelt Circle, there may be additional circles established in each community, or with a collective of communities working together. Communities shall have the autonomy to establish a Community Circle within their community that best services their communities and adopt their own process for the composition of the Community Circle and operational processes at the community level.
14. Both Circles' members shall receive professional, legal, and spiritual support, individually and collectively.
15. Both Circles will be bound by Tsekwenstes (to hold in safe keeping) and will have a duty to report to the governing body of the child and families' community as requested.
16. The Circles, both nation-based and community-based, shall have the authority to review all matters related to children and family concerns and to make decisions based upon the values contained within this law. Where a community does not have a community-based circle, the Secwépemc Stsmémelt Circle shall hear the matter.
17. When reviewing a matter involving a child and family, the community's designated representative shall determine which circle shall hear the matter: The Community Circle or the Secwépemc Stsmémelt Circle. Each signatory community shall select their community designated representative through their own community process.
18. When making decisions, the Circle members shall consider:
 - a. The child's cultural ancestry/background, access to language, spirituality, and heritage.
 - b. The child's needs, given the child's age, stage of development, and the child's need for stability.
 - c. The nature and strength of the child's relationship with the child's parent, caregiver, and any member of the child's family who plays an important role in the child's life.
 - d. The importance of the child's cultural and connections to the Secwépemc communities and any other Secwépemc adult.
 - e. The child's views and preferences, giving weight to the child's age and maturity.
 - f. Any plans for the child's care, including care in accordance to custom or traditions of the Secwépemc and other social supports within the community.
 - g. Any family violence and its impact on the child (e.g. physical, emotional, and sexual abuse).
 - h. The capacity of the parent to provide care, including parental neglect due to addictions.
 - i. All of the above factors shall be cumulatively considered, resulting in a decision based on the best interests of a Secwépemc child.
19. Where there is an allegation of abuse, domestic violence or other such criminal behavior, the Circles shall immediately report such allegation to the Royal Canadian Mounted Police ("RCMP") to investigate. The safety of the child is paramount and the Circles shall have the authority to take actions on an emergency basis to ensure that children are protected from harm, this includes immediate removal to temporary care pending an

investigation and full hearing of the matter by the Secwépemc Stsmémelt Circle or Community Circle.

20. In all cases, the Circles shall make every effort to ensure that the family is provided with the support and services necessary to address whatever issues that brought the family to the Circle. These supports and services shall be designed to protect the child first and foremost, and secondly, to heal the family as a unit, through access to appropriate programs and services.
21. Where a Circle must make the decision to temporarily removed a Secwepemc child from the parents, the Circle shall take into consideration the principles of Section 1 and 2 and all factors in Section 18. The Circle shall make a decision for placement in the following order of priority:
 - a. With one of the Secwepemc child's parents.
 - b. With another Secwépemc family member of the child.
 - c. With another Secwépemc adult that is from the same community as the child.
 - d. With any other Secwépemc adult or any other Indigenous adult.
 - e. With any other adult.
 - f. In all cases, the best interests of the Secwepemc child should be the deciding consideration.
22. A child shall be entitled to be represented by a child advocate at the Circle where such representation is deemed appropriate by the members of the Circle or as requested by the child's parent(s) or family.
23. Where the Circle, after weighting all factors outlined in this law, finds that it is in the best interest of the Secwepemc child to temporarily remove the child from the parents, the parents will remain guardians of the child because they are the child's parents regardless of location. The child will be placed in accordance to this law and the placement caregiver(s) shall be considered temporary guardian(s) of the child, in a collective and joint manner with the child's parents.
24. Joint and collective guardianship must ensure that parents are involved in the plan of care for the child while the child is in a temporary guardianship placement. Access, where appropriate, should be considered an essential and necessary part of any plan of care.
25. Where parents are unable or unavailable to participate in a joint and collective plan of care for the child, the temporary guardians shall have the right to make decisions on behalf of the child to ensure consistent care, health, and well-being for the child. This includes medical decisions as required from time to time.
26. Where every effort has been made by the Circle to reunite the child and parents as a family unit and all resources available to the Circle have been exhausted, the Circle may make an order for the child to be placed into permanent care, only if it is in the best interest of the Secwepemc child taking into consideration the principles of Sections 1 and 2 and all factors outlined in section 18.
27. A decision of either Circle shall be supported by the appropriate services and programs as provided by the Yecwmínte re Xqwillint.

28. Each community exercising jurisdiction in accordance with this law shall have the right to adopt community legislation, policy, procedures, and operational processes to apply to their community to fully implement this law. This right includes the establishment of a community circle where appropriate.

RE-GATHERING- ME7 PLULKWENTWECW-KUCW C7U7TSEN

29. If a party to the Stsmemelt Circle decision making process does not agree with the decision, they shall have a right to submit an regathering request and seek a review of the decision.
- a. The person shall submit a written request to the Yecwmínte re Xqwillint;
 - b. The Yecwmínte re Xqwillint will arrange for a re-gathering of a Stsmemelt Circle with different members than the original Circle decision makers within 14 business days;
 - c. The right to submit a dispute is not contingent on merits or grounds, but can be submitted if the person does not agree with the decision or if circumstances have changed;
 - d. At the re-gathering, all facts shall be reviewed and parties shall have the right to state their positions and put forward options for alternative decisions;
 - e. Stsmemelt Circle members shall reconsider the decision, taking into account all submissions and the law, and confirm the original decision or change it and provide the parties with the reasons.
 - f. The Stsmemelt Circle shall strive to reach a consensus during a re-gathering where possible.
 - g. There is no limit on the number of times a party can submit a request for a re-gathering, the decision to hear a re-gathering or not is in the discretion of the Circle after reviewing all of the facts and information submitted with the request.

CUSTOM ADOPTION

30. This law recognizes the traditional practice of custom adoption as being the act of taking in a child in need of parenting and care, as if the child was a child of birth.
31. The birth parents must provide their consent to the custom adoption by meeting with the Secwépemc Stsmémelt Circle for that purpose. If the birth parents are unwilling or unable to provide such consent, the Secwépemc Stsmémelt Circle may make a binding decision to allow the custom adoption to proceed, taking into consideration the best interest of the Secwepemc child. Custom adoption can also be by the consent of the child's wishes if the Secwépemc Stsmémelt Circle determines the child is age-appropriate and mature enough, and taking into consideration the principles in Section 1 and 2 and all factors in Section 18.

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32. The Band Council, or the Traditional Governing Body where operational, shall confirm the adoption decision by the Secwépemc Stsmémelt Circle by facilitating the registration of the child under the Indian Act or by way of the Community's Membership Code, or the adoptive parent's name as a member of the community.
33. At no time shall a Secwépemc child be adopted into a non-Secwépemc family, unless otherwise decided by the Secwépemc Stsmémelt Circle, based on the principles of Section 1 and 2 and all factors in Section 18. If the Stsmemelt Circle makes the exception the child will remain eligible to be registered as a Community Member either through the Indian Act or Community Membership Code.
34. Where an individual or couple accepts a child under a custom adoption, those individuals shall be recognized in the community and to all other non-Secwépemc government authorities as the parent(s) of that child.
35. A custom adoption decision by the Secwépemc Stsmémelt Circle shall include ceremony as guided by the traditional/spiritual advisor(s) in the communities.
36. There shall be no re-gathering available to the Parties once an adoption decision has been finalized by the Stsmemelt Circle.

AMENDMENT

37. This law may be amended by the signatories of the law by providing notice to all other signatories of a proposed amendment. The communities must seek consensus of the people that will be confirmed through a Band Council Resolution from each community, or through the Traditional Governing Body, where operational. Any amendments must have unanimous agreement by all signatories.
38. At no time shall a proposed amendment prevent the ongoing implementation of this law.
39. This law shall be reviewed by the signatories every three years for the purpose of amending provisions to meet the needs of the Secwépemc.

DEFINITIONS

40. **Band Council Resolution:** A document indicating a governing decision of the Chief and Council of an Indian Band operating under the Indian Act.
41. **Best Interests of a Secwepemc Child:** means access to food, shelter, emotional and physical supports, meaningful access to traditional Secwepemc teachings, access to Secwepemc language and educational systems both formal school and on the land teachings, access to Secwepemc songs, dances, ceremony, and Knowledge Keepers.
42. **Caregiver:** An individual who will provide the parenting needs to a child in accordance to this law.
43. **Circle of Protection and Prevention:** means a group of community resources that includes all services available in a community that can be provided to develop a plan of care for a child and family in a holistic manner.

44. **Community:** a collective of people of a village, campfire, reserve or area who identify as belonging to the same campfire or Band under the Indian Act.
45. **Coordination Agreement:** An agreement referred to in subsection 20(2) of An Act respecting First Nations, Inuit, and Metis Children, Youth, and Families.
46. **Custom Adoption:** the cultural practice in which a child is raised by a person who is not the child's biological parent, according to the customary law of the family's community.
47. **Decision-Making Body:** The Secwépemc Stsmémelt Circle or community circle as selected by the community process, as adopted by each community under their legislation, policy, procedures, and practices specific to their own community.
48. **Designated representative:** for the purposes of the implementation of this law, the person that is designated by the governing body to make decisions regarding what Circle the child and family matter should be referred to for decision.
49. **Family:** Relatives of the child and parents, including those individuals who are not blood relatives but considered family through association with the child and parents. This definition should be interpreted broadly and from a traditional perspective.
50. **Governing body:** The Chief and Council of a Band as defined under the Indian Act, RSC, and related administrative support resources.
51. **Guardian:** a person who is assigned by a Circle to look after and is legally responsible for a child, who oversees the welfare and safety of the child and acts in the best interest of a child.
52. **Joint and Collective Guardianship:** where the Circle assigns a Guardian to look after a child's day to day needs and where appropriate also includes the child's parents as joint guardians with the expectation that the parents will work with the Guardian in a cooperative manner in the best interests of the child to be involved in the plan of care.
53. **Plan of Care:** A plan that is developed to assist families in healing, including counselling, parenting skill development, spiritual support, and all other available programs and services that can support a family in a holistic manner.
54. **Parties:** any person who participated in a Stsmemelt Circle decision making process.
55. **Secwepemc child:** A child registered under the Indian Act as a member of one of the signatory communities or a child that is a member of a Secwepemc community through family association and ties and this definition should be interpreted broadly and from a traditional perspective.
56. **Secwépemc Signatories:** For the purposes of this law only, meaning those communities that have agreed to assert jurisdiction, or supreme authority, through the adoption of this law, and that have signed the law.
57. **Temporary Removal:** A decision of the Circle to remove the child from the parent and place the child with another person for a specific time, including any extension of or change to the decision.
58. **Traditional Governing Body:** A form of leadership in which authority of decision-making is exercised in accordance to the customs of that community.

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59. **Transition Period:** The amount of time that will be required for the Secwépemc to implement their own law while working with the delegated agencies, including a Provincial Director for Child and Family Development, to ensure continuity of services for children and families.
60. **Tsekwenstes:** means to hold information and data in safe keeping, also referred to as confidentiality.
61. **Yecwinte re Xqwillint** is the Secwepemc name for the Society that will administer the Secwepemc Law of Stsmemelt and Kw'seltkten and translates in English to "Take Care of the Baby Basket".