A BY-LAW FOR THE CARE OF OUR INDIAN CHILDREN:

SPALLUMCHEEN INDIAN BAND BY-LAW #3 - 1980
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1. RECOGNIZING the special relationship which exists among band members to care for each other and to govern themselves in accordance with the five basic principles of Indian government:

(i) WE ARE THE ORIGINAL PEOPLE OF THIS LAND AND HAVE THE ABSOLUTE RIGHTS TO SELF-DETERMINATION THROUGH OUR OWN UNIQUE FORMS OF INDIAN GOVERNMENTS (BAND COUNCILS).

(ii) OUR ABORIGINAL RIGHT TO SELF-DETERMINATION THROUGH OUR OWN UNIQUE FORMS OF INDIAN GOVERNMENTS ARE TO BE CONFIRMED, STRENGTHENED AND EXPANDED OR INCREASED, THROUGH SECTION 91(24) OF THE BRITISH NORTH AMERICAN ACT.

(iii) OUR INDIAN RESERVE LANDS ARE TO BE EXPANDED TO A SIZE LARGE ENOUGH TO PROVIDE FOR THE ESSENTIAL NEEDS OF ALL OUR PEOPLE.
(iv) ADEQUATE AMOUNTS OF LAND, WATER, FORESTRY, MINERALS, OILS, GAS, WILDLIFE, FISH, AND FINANCIAL RESOURCES ARE TO BE MADE AVAILABLE TO OUR INDIAN GOVERNMENTS ON A CONTINUING BASIS AND IN SUFFICIENT QUANTITIES TO ENSURE DOMESTIC, SOCI-ECONOMIC SELF-DETERMINATION FOR PEACE, ORDER AND GOOD GOVERNMENT OF INDIAN PEOPLE.

(v) OUR INDIAN GOVERNMENTS (BAND COUNCIL) OR LEGISLATURES ARE TO HAVE THE AUTHORITY TO GOVERN THROUGH MAKING LAWS IN RELATION TO MATTERS COMING WITHIN SPECIFIED AREAS OF JURISDICTION THAT HAVE BEEN DEFINED BY OUR PEOPLE.

AND RECOGNIZING OUR AUTHORITY TO CARE FOR OUR CHILDREN WITHIN THE TERMS OF THE INDIAN ACT R.S.O. 149 S. 81 AND IN PARTICULAR S.P.1 (a) (c) (d) AND ANCILLARY POWERS IN S. 81 (g)

The Spallumcheen Indian Band finds:

(a) that there is no resource that is more vital to the continued existence and integrity of the Indian Band than our children.
(b) that an alarmingly high percentage of Indian families are broken up by the removal, often unwarranted, of their children from them by non-band agencies.

(c) that the removal of our children by non-band agencies and the treatment of the children while under the authority of non-band agencies has too often hurt our children emotionally and serves to fracture the strength of our community, thereby contributing to social breakdown and disorder within our reserve.

2. In this by-law, unless the context otherwise requires:

"Indian Band" means the band members of the Spallumcheen Indian Band, as defined under the Indian Act and by band custom.
"Indian" means a person recognized as an Indian by the Band Council.

"Indian Child" means a band member of the Spallumcheen Indian Band, as defined under the Indian Act under the age of 21 years, and unmarried.

"Extended Family Member" shall be defined by the law and custom of the Spallumcheen Indian Band and shall be a person who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or a sister-in-law, niece or nephew, first or second cousin or step-parent.

"Family" means the unit within which the Indian child is a permanent member and usually resides.

"Indian Custodian" means any person who has legal custody of an Indian child under custom or under this by-law or whose temporary physical care, custody and control has been transferred by the parent of such child.

"Glmucu7iy" ma7 yac n7al ac re mutes ne glmuculucw.

"Cglmucwicwlt" ma7 yac re Splatsinac re stsmalts a ta7us k stsmelahms ala a twiwtes (sallupekst al nku7)

"Kwsaltktn" ma7 yac xwexwayt ull sla7as meta qya7as, tu7mas, sis7as, smastas, uqwis, stsaacts, skaws, stuncs, stamats all s7illew te tskwatstn.

"Kwsaltktnuy" ma7 yac us ne mutes ne qllmins.

"Tutilatn" ma7 yac ac re yucwmanilames wa7 yaws re kukpi7, a yaws re qllmins niri7 k kectames.
"Parent" means any biological parent or parents of an Indian child or any Indian person who has lawfully adopted an Indian child, including adoptions under tribal law or custom.

"Band Council" means the Chief and Councillors of the Spallumcheen Indian Band, either elected by custom or under the Indian Act.

"Reservation" means the reservation of lands reserved by Her Majesty the Queen for the use and benefit of the Spallumcheen Indian Band as defined under the Indian Act.

"General Band Meeting" means a meeting of the band membership, as defined by the provision of the Indian Act and by band custom and law.

"Child Custody Proceeding" shall mean and include:

(a) any action relocating an Indian child from the home of his/her parents, extended family member or Indian custodian for placement in another home.

"Gllmin" ma7 yac swati7 k kulentmes, a swatis k pell sectucpilt.

"Tkwamipla" ma7 yac re kukpi7 all re knucwtnts.

"Glmuculucw" ma7 yac re tmicw us ne mu tes re glmuc tes kectam te sama7s snkukpi7s.

"Sqw7a1" ma7 yac us re plulkwes re qlmuc meta kukpi7 all re knucwtnts.

"Scqwlallcwu ne Stsmalt" ma7 tslxastac;

(a) a kwantmes re cqlmucwicwlte kwsaltktns, te qllmins, te tutilatn ma7 tntames ne ticwell tek tsitcw.
(b) and the maintenance of the Indian child in the home of the Indian custodian.

(c) and the return of the Indian child to the home of the Indian child's family.

3. (a) The Spallumcheen Indian Band shall have exclusive jurisdiction over any child custody proceeding involving an Indian child, notwithstanding the residence of the child.

(b) all a pell knucwtns re cqlmucwicwlt ne tsitcw re tutilatn.

(c) all a tsuntmes es plqatam ne kwsltktnuys.

3. (a) Tskuk ull Splatsinac ma7 pell tkwamiplatn ne stsmamlt p7acw te ql1lmins.

4. (a) The Band Council shall see that the Provisions of this by-law are carried out and may exercise such powers as are necessary to carry out this by-law including:-

4. (a) Re, tkwamipla ma7 yucwemins xwexwayt nray te tsqay es tsetsats kes tnmins.
(b) The Appointment of such persons to act on behalf of the Band Council in the performance of any of the duties under this by-law as the occasion may require, and

(c) The making of such regulations as, from time to time may be necessary to carry out the provisions of this by-law, including but not limiting, regulations:

(i) governing the creation of special programs designed to aid in any child custody proceeding and in fulfilling the purposes of this by-law.

(ii) governing the expenditure of band money designed to aid in any child custody proceeding and fulfilling the purposes of this by-law.

(iii) governing the conduct of Indian children, Indian guardians, parents, or extended family members, or any person acting on behalf of any band member in a child custody proceeding and in fulfilling the purposes of this by-law.
(iii) custody proceeding which may be necessary for the proper working of this by-law.

5. The Chief and Council shall be the legal guardian of the Indian child, who is taken into the care of the Indian Band.

6. The Chief and Council and every person authorized by the Chief and Council may remove an Indian child from the home where the child is living and bring the child into the care of the Indian Band, when the Indian child is in need of protection.

7. An Indian child is in need of protection when:

   (a) a parent, extended family member or Indian guardian asks the Indian Band to take care of the child.

   (b) The child is in a condition of abuse or neglect endangering the child's health or well-being, or

   (iii) re stsmamlt as tsetsats re tkwamiplatns.

   (iii) re stsmamlt as tsetsats re tkwamiplatns.

   5. Re kukpiy meta knucwtns ma7 tsqay ne cqlmucwicwlt a kwantmes te Splatsinac es yucwamins.

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   6. Re kukpi7 meta knucwtns all wa7 swates a kw1matns ma7 k wans re cqlmucwicwlt us ne mutes ma7 ts7ukwases te Splatsinac es yucwaminta a ta7us kes lecaksts us ne mutes.,

   6. Re kukpi7 meta knucwtns all wa7 swates a kw1matns ma7 k wans re cqlmucwicwlt us ne mutes ma7 ts7ukwases te Splatsinac es yucwaminta a ta7us kes lecaksts us ne mutes.,

   7. Ma7 knucwata re cqlumcwicwlt:

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   (a) re qllmins, re tutilatn a yaws re kwsaltktn a sawases re Splatsinac.

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   (b) a ta7us kes la7s kes yucwamins re stsmamlt, us a k7apes.

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(c) the child is abandoned, or

(d) the child is deprived of necessary care because of death, imprisonment or disability of the parents.

8. A person who removes an Indian child from his/her home may place the child in a temporary home, to be chosen at the discretion of the person removing the Indian child.

9. A person who removes an Indian child from his/her home shall within seven days bring the child before Chief and Council.

10. Before deciding where the Indian child should be placed, Chief and Council should consider and be guided by Indian customs and the following preferences:

(i) The wishes of the Indian child, whenever, in the opinion of Band Council, the child is old enough to appreciate his/her situation.

8. Wa7 swates a kwantmes re cqlmucwicwlt te tsitcws ma7 yac awi7s a tntames tca7a ma7 la7es kes muts.

9. Nek tsutsllkasqt ma7 ukwas re cqlmucwicwlt te kukpi7 ma7 tkwamiplentmas.

10. Xetaqs all ma7 kwanemes esmutens re cqlmucwicwlt ma7 ptinesmas yirana:

(i) re pusmas re cqlmucwicwlt as kwenacatsuts a lexlaxes awi7s.
(ii) Wherever possible, help should be given to rebuild the family, of the Indian child.

(iii) In the absence of placement with the family, a preference for placement shall be given in this order to:

1) a parent

2) a member of the extended family living on the reserve.

3) a member of the extended family living on another reserve, although not a reserve to the Indian Band.

4) a member of the extended family living off the reserve.

5) an Indian living on a reserve.

6) an Indian living off a reserve.

7) only as a last resort shall the child be placed in the home of a non-Indian living off the reserve.

(ii) a la7es xwexwayt stam, as knucwas re qllmins ma7 plqatames ne kwasltktenuys.

(iii) a ta7us esla7s es muts ne qllmins:

1) ma7 mut ne qi7cas, a yaws re qa7tsas.

2) ma7 mut ne kwasltktns.

3) ma7 mut ne kwsaltktns nek ticwell te qlmuculucw.

4) ma7 mut ne kwsaltktns ne sm7ulucw.

5) ma7 mut ne glmuc ne qlmuculucw.

6) ma7 mut ne glmuc ne sm7ulucw.

7) tsuk a ta7us pell ckwanamas ma7 tntâmes nek sama7 ne sm7ulucw.
(iv) In all cases, the best interests of the child should be the deciding consideration.

11. The Chief and Council shall place the child in a suitable home.

12. Any band member of any parent or member of the Indian child's extended family or Indian guardian may review the decision made by the Band Council to remove the Indian child from his/her home or to the placement of the child by the Band Council.

13. The person seeking a review shall notify in writing the Band Council at least 14 days before the next band meeting.

14. Upon receiving the written notice to review, Band Council shall put the question before the Indian Band at the next General Band Meeting.

15. The Indian Band, by majority vote of the band members attending at the General Band meeting shall decide on the placement of the Indian child. The decision of the Indian Band shall be governed by the considerations stated in S. 10 of this by-law.
16. The Chief and Council shall ensure that the child's family be advised of important changes and events in the life of the child while the child is in the care of the band.

Wherever possible the responsibility for such communications shall be delegated to the Indian guardian.

17. The Chief and Council shall ensure that an assistance programme be established from time to time, which may be necessary to facilitate the stable placement of an Indian child.

18. The Indian child, the parent, member of extended family of Indian guardian may, at any time seek a decision from Band Council concerning the return of the Indian Child to his/her family, or the removal of the Indian child to the home of another Indian guardian.

19. Upon receiving written notice of an application to return or remove the Indian child, the Band Council shall consider the placement, guided by the consideration under S. 10 of this by-law to return the Indian child to his/her family or maintain the Indian child with the Indian guardian or place the Indian child in another home.
20. Any Band member, parent, member of the child's extended family of Indian guardian may review Band Council's decision under S. 19 of the by-law.

21. The person reviewing shall notify Band Council in writing at least 14 days before the next General Band Meeting.

22. Upon receiving written notice to review, Band Council shall put the question before the Indian Band at the next General Band Meeting.

23. The Indian Band by majority vote of the Band Members attending the General Band meeting, shall decide on the placement of the Indian child. The decision of the Band shall be made and governed by the considerations under S. 10 of this by-law.
This by-law was passed by an unanimous vote of Band Members at a General Meeting held June 3, 1980 held at the Timbercreek Council Hall; and an unanimous vote of Band Council, taken at that General Band meeting.

Chiefs

Chief

Chief

Minister of Indian Affairs

Councillors

Councillor

Councillor

Councillor

Councillor

Minister of Indian Affairs