

chapter P-34.1

YOUTH PROTECTION ACT

AS Québec has declared itself bound by the Convention on the Rights of the Child by Order in Council 1676-1991 dated 9 December 1991;

AS the interest of the child is the primary consideration in any decision made in the child's regard;

AS, under the Charter of human rights and freedoms and the Civil Code of Québec, every child has a right to the protection, security and attention that his parents or the persons acting in their stead are able to give to him;

AS the protection of children is a collective responsibility that requires the mobilization and collaboration of all the resources in the community in order to limit the State's authority intervention in the lives of families under this Act to exceptional situations;

AS a child's perception of time differs from that of adults because he is still developing;

AS the emotional stability and security of a child are major determinants in ensuring the child's healthy development;

AS the child and his parents have the right to have their voices heard and as their participation in decisions that concern them and the consideration of their opinion have the effect of further empowering them to act;

AS it is important to facilitate a child's transition to adulthood;

AS it is important to recognize the specificity of children who belong to minority groups, such as children belonging to ethnocultural communities;

AS Indigenous persons are best suited to meet the needs of their children in the manner that is the most appropriate;

AS cultural safety is essential to the well-being of Indigenous children;

AS interventions in respect of an Indigenous child must be carried out taking into account the circumstances and characteristics of his community or of another environment in which he lives so as to respect his right to equality and foster cultural continuity;

1977, c. 20; 2022, c. 11, s. 1.

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REPEAL SCHEDULE

CHAPTER I

INTERPRETATION AND SCOPE

1984, c. 4, s. 1.

1. In this Act, unless the context indicates a different meaning,

(a) “Commission” means the Commission des droits de la personne et des droits de la jeunesse established by the Charter of human rights and freedoms (chapter C-12);

(b) “director” means the director of youth protection appointed for an institution operating a child and youth protection centre;

(c) “child” means a person under 18 years of age;

(c.1) “holiday” means a holiday within the meaning of section 61 of the Interpretation Act (chapter I-16), as well as 26 December and 2 January;

(c.2) “alternative living environment” means an environment to which a child is entrusted under this Act, other than that of either of the child’s parents;

(d) “body” means any Indigenous organization, any educational body and any childcare establishment, as well as any other group of persons or assets, whatever its legal form, which is child-related or whose function is to offer services to children and their family, particularly in the areas of support for victims, assistance to children and their parents, placement, rights advocacy, recreation and sports or whose mission is to promote the interests of children or to improve their living conditions;

(d.1) “educational body” means any institution providing instruction at the elementary, secondary or college level;

(d.2) “childcare establishment” means a childcare centre, a day care centre, or a person recognized as a home educational childcare provider within the meaning of the Act respecting educational childcare (chapter S-4.1.1);

(e) “parents” means the father and the mother or the parents who are not deprived of parental authority and any other tutor;

(f) “regulation” means any regulation made under this Act by the Government;

(g) “tribunal” means the Court of Québec established by the Courts of Justice Act (chapter T-16);

(h) *(subparagraph repealed)*.

The expressions “hospital centre”, “local community service centre”, “institution” and “foster family”, including “kinship foster family”, have the meaning assigned to them by the Act respecting health services and social services (chapter S-4.2) or the Act respecting health services and social services for Cree Native persons (chapter S-5), as the case may be.

The expressions “child and youth protection centre”, “rehabilitation centre” and “agency” have the meaning assigned to them by the Act respecting health services and social services and also mean, respectively, a “social service centre”, a “reception centre” and a “regional council” within the meaning of the Act respecting health services and social services for Cree Native persons.

In this Act, the word “clerk”, wherever it appears, includes the assistant clerk.

1977, c. 20, s. 1; 1981, c. 2, s. 1; 1984, c. 4, s. 2; 1988, c. 21, s. 118; 1989, c. 53, s. 1; 1992, c. 21, s. 210; 1994, c. 35, s. 1; 1994, c. 23, s. 23; 1995, c. 27, s. 8; 2005, c. 32, s. 308; 2006, c. 34, s. 1; 2017, c. 18, s. 1; 2022, c. 9, s. 97; 2022, c. 11, s. 2; 2022, c. 22, s. 180.

2. The purpose of this Act is to protect children whose security or development is or may be considered to be in danger. The Act also aims to put an end to and prevent the recurrence of situations in which the security or the development of a child is in danger.

In addition, it supplements the provisions of the Civil Code that concern the adoption of children domiciled in Québec or outside Québec.

Lastly, in these matters, this Act sets out, in Chapter V.1, provisions specific to Indigenous people, which add to or depart from its other provisions.

1977, c. 20, s. 2; 1984, c. 4, s. 3; 2017, c. 12, s. 53; 2022, c. 11, s. 3.

2.1. The extrajudicial sanctions and the guidance mechanism for children who have committed an offence against an Act or regulation of Canada are established in the program of extrajudicial sanctions authorized in accordance with the Youth Criminal Justice Act (Statutes of Canada, 2002, chapter 1).

1984, c. 4, s. 3; 2006, c. 34, s. 2.

CHAPTER II

GENERAL PRINCIPLES, RIGHTS OF THE CHILD AND OF HIS PARENTS AND PARENTS’ RESPONSIBILITIES

1984, c. 4, s. 4; 2022, c. 11, s. 4.

DIVISION I

GENERAL PRINCIPLES

2022, c. 11, s. 4.

2.2. *(Replaced).*

1984, c. 4, s. 4; 1994, c. 35, s. 2; 2022, c. 11, s. 4.

2.3. *(Replaced).*

1984, c. 4, s. 4; 1994, c. 35, s. 3; 2006, c. 34, s. 3; 2022, c. 11, s. 4.

2.4. *(Replaced).*

1994, c. 35, s. 3; 2017, c. 12, s. 54; 2022, c. 11, s. 4.

3. The interest of the child is the primary consideration in the application of this Act. Decisions made under this Act must be in the interest of the child and respect his rights.

In addition to the moral, intellectual, emotional and material needs of the child, his age, health, personality and family environment, including the socioeconomic conditions in which the child lives, and the other aspects of his situation must be taken into account.

1977, c. 20, s. 3; 1984, c. 4, s. 5; 1994, c. 35, s. 4; 2017, c. 18, s. 2; 2022, c. 11, s. 5.

4. Every decision made under this Act must aim at ensuring continuity of care as well as the stability of the child's relationships and of living conditions appropriate to his needs and age. Therefore, keeping the child in his family environment should be favoured, provided it is in the child's interest.

If keeping the child in his family environment is not in his interest, priority must be given to entrusting the child to the persons most important to him, in particular the grandparents or other members of the extended family.

If it is not in the interest of the child to entrust him to such persons, the child must then be entrusted to a living environment most closely resembling a family environment.

If returning the child to his family environment is not in his interest, the decision must, on a permanent basis, ensure continuity of care and the stability of his relationships and of living conditions appropriate to his needs and age.

1977, c. 20, s. 4; 1984, c. 4, s. 5; 2006, c. 34, s. 4; 2017, c. 18, s. 3; 2022, c. 11, s. 6.

4.1. Where the child is removed from his family environment, keeping the child and his siblings in the same alternative living environment must be favoured, provided it is in the child's interest.

2022, c. 11, s. 6.

4.2. Where the child is removed from his family environment, the parents' involvement must always be fostered, with a view to encouraging or helping them to exercise their parental responsibilities, provided that such involvement is in the interest of the child.

In such circumstances, the director must, in addition to planning the child's return to that environment, make plans for an alternative project aimed at ensuring, without delay, continuity of care and the stability of the child's relationships and of his living conditions on a permanent basis in the event that a return to his family environment would not be in the interest of the child.

2022, c. 11, s. 6.

4.3. Any intervention in respect of a child and the child's parents under this Act must, if the circumstances are appropriate, favour means that allow the child and his parents to take an active part in making the decisions and choosing the measures that concern them.

2022, c. 11, s. 6.

4.4. Persons having responsibilities towards a child under this Act and persons called upon to make decisions with respect to a child under this Act shall, in their interventions,

(a) treat the child and the child's parents with courtesy, fairness and understanding, and in a manner that respects their dignity and autonomy;

(b) act diligently to ensure the child's security or development, given that a child's perception of time differs from that of adults;

(c) take into consideration the proximity of the chosen resource; and

(d) take into account the characteristics of ethnocultural communities, including when choosing an alternative living environment for the child.

2022, c. 11, s. 6.

4.5. Institutions, bodies and persons having responsibilities towards a child under this Act and persons called upon to make decisions with respect to a child under this Act shall

(a) encourage the participation of the child and the parents, and the involvement of the community; and

(b) cooperate with each other and see to obtaining in an optimal manner the cooperation of resources in the community; they act in concert with those resources willing to cooperate with them, to ensure that their interventions are coordinated.

2022, c. 11, s. 6.

4.6. The conditions prescribed by law that must be met to communicate confidential information concerning the child or the child's parents must be construed so as to facilitate the communication of that information where it is in the interest of the child or is intended to ensure the protection of another child.

2022, c. 11, s. 6.

DIVISION II

RIGHTS OF THE CHILD AND OF HIS PARENTS

2022, c. 11, s. 6.

5. Persons having responsibilities regarding a child under this Act and persons called upon to make decisions with respect to a child under this Act must inform him and his parents as fully as possible of their rights under this Act and in particular, of the right to consult an advocate and of the rights of appeal provided for in this Act.

In the case of an intervention under this Act, a child as well as his parents must obtain a description of the means and stages of protection and rehabilitation envisaged towards ending the intervention.

1977, c. 20, s. 5; 1984, c. 4, s. 6; 2022, c. 11, s. 7.

6. The persons and courts called upon to take decisions respecting a child under this Act must give this child, his parents and every person wishing to intervene in the interest of the child an opportunity to be heard.

1977, c. 20, s. 6.

6.1. Persons having responsibilities towards a child under this Act and persons called upon to make decisions with respect to a child under this Act shall, in their interventions, take into account the necessity

(a) of ensuring that any information or explanation that must be given to a child within the framework of this Act is given in terms that are adapted to his age and his capacity of understanding;

(b) of ensuring that the parents have understood the information or explanations that must be given to them within the framework of this Act; and

(c) of giving the child and the child's parents an opportunity to present their points of view, express their concerns and be heard at the appropriate time during the intervention.

2022, c. 11, s. 8.

6.2. The child and the child's parents are entitled to be accompanied and assisted by a person of their choice when they wish to obtain information or when meeting the director or any person the director authorizes.

2022, c. 11, s. 8.

7. Before a child is transferred from one alternative living environment to another, the child's parents and the child himself, if he is capable of understanding, must be consulted.

The child must receive the information and preparation necessary for his transfer.

The alternative living environment to which the child is entrusted must also be consulted unless doing so would be contrary to the interest of the child.

1977, c. 20, s. 7; 1992, c. 21, s. 211; 1994, c. 35, s. 6; 2017, c. 18, s. 4.

8. The child and the parents are entitled to receive, with continuity, in a personalized manner and with the required intensity, health services and social services that are appropriate from a scientific, human and social standpoint, taking into account the legislative and regulatory provisions governing the organization and operation of the institution providing those services, as well as its human, material and financial resources.

1977, c. 20, s. 8; 1981, c. 2, s. 2; 1992, c. 21, s. 375; 1994, c. 35, s. 7; 2006, c. 34, s. 5; 2022, c. 11, s. 9.

8.1. The child is entitled to receive, on the conditions prescribed in section 8, appropriate educational services from an educational body.

Every educational body must ensure the continuity of those services for a child entrusted to an alternative living environment.

2022, c. 11, s. 10.

9. Any child entrusted to an alternative living environment has the right to communicate in all confidentiality with his advocate, the director who has taken charge of his situation, the Commission, and the clerks of the tribunal.

The child may also communicate in all confidentiality with his parents, brothers, sisters and any other person, unless the tribunal decides otherwise. However, in the case of a child entrusted to an institution operating a rehabilitation centre or a hospital centre, the executive director of that institution or the person the executive director authorizes in writing may prevent the child from communicating with a person other than his parents, brothers and sisters if the executive director considers it to be in the interest of the child. The decision of the executive director must give reasons, be in writing and be given to the child and, as far as possible, to the child's parents.

The child or his parents may refer any such decision of the executive director to the tribunal. Such an application is heard and decided by preference.

The tribunal shall confirm or quash the decision of the executive director. It may, in addition, order him to take certain measures relating to the right of the child to communicate in the future with the person who is the subject of the decision or with any other person.

1977, c. 20, s. 9; 1981, c. 2, s. 3; 1984, c. 4, s. 7; 1988, c. 21, s. 119; 1989, c. 53, s. 11, s. 12; 1992, c. 21, s. 212; 1994, c. 35, s. 8; 2006, c. 34, s. 6; I.N. 2016-01-01 (NCCP); 2017, c. 18, s. 5.

9.1. When a child is entrusted to an alternative living environment, the child's contacts with persons who are important to him must be encouraged by taking his wishes into account, provided such contacts are in the interest of the child.

2022, c. 11, s. 11.

9.2. The child and the child's parents have the right to have any information that concerns them and allows them to be identified, if collected under this Act, to be handled in a confidential manner and disclosed only in accordance with the provisions of this Act.

2022, c. 11, s. 11.

9.3. No one may, under this Act, publish or broadcast information allowing a child or the child's parents to be identified, unless the tribunal so orders or so authorizes on the conditions it determines or unless the publication or broadcast is necessary for the purposes of this Act or a regulation made under it.

Furthermore, the tribunal may, in a specific case, prohibit or restrict, on the conditions it prescribes, the publication or broadcast of information relating to a hearing of the tribunal.

2022, c. 11, s. 11.

10. Every disciplinary measure taken by an institution operating a rehabilitation centre in respect of a child must be taken in the child's interest and in conformity with internal rules that must be approved by the board of directors and posted in a conspicuous place in the facilities of the institution. The institution must ensure that the rules are explained to the child and to the child's parents.

A copy of the internal rules must be given to the child, if he is capable of understanding, and to the child's parents. A copy of the rules must also be sent to the Commission, to the Minister of Health and Social Services, to the agency and to the institution operating the child and youth protection centre.

The measures provided for in section 118.1 of the Act respecting health services and social services (chapter S-4.2), in particular isolation, may never be used as disciplinary measures. The same applies to placement in an intensive supervision unit, as provided for in section 11.1.1 of this Act, and to a measure intended to prevent a child from leaving the facilities maintained by an institution operating a rehabilitation centre, as provided for in section 11.1.2 of this Act.

1977, c. 20, s. 10; 1984, c. 4, s. 8; 1985, c. 23, s. 24; 1989, c. 53, s. 12; 1992, c. 21, s. 213, s. 375; 1994, c. 35, s. 9; 2005, c. 32, s. 308; 2006, c. 34, s. 7; 2017, c. 18, s. 6.

11. No child shall be placed in a correctional facility within the meaning of the Act respecting the Québec correctional system (chapter S-40.1) or in a police station.

1977, c. 20, s. 11; 1991, c. 43, s. 22; 2002, c. 24, s. 204; 2002, c. 24, s. 209.

11.1. Any child to whom foster care is provided by an institution under this Act shall be placed in premises appropriate to his needs and rights, taking into account the legislative and regulatory provisions governing the organization and operation of the institution and the human, material and financial resources at its disposal.

1984, c. 4, s. 9; 1992, c. 21, s. 214, s. 375; 1994, c. 35, s. 10.

11.1.1. If a child is provided with foster care in compliance with an immediate protective measure or an order issued by the tribunal under this Act, and there is a serious risk that the child represents a danger to himself or to others, the child may be placed in an intensive supervision unit maintained by an institution operating a rehabilitation centre that allows close supervision of the child's behaviour and movements due to its more restrictive layout and special living conditions.

Placement in such a unit must be aimed at ensuring the child's safety, putting an end to the situation placing the child or others in danger and preventing the recurrence of such a situation in the short term.

Placement of the child in an intensive supervision unit may occur only following a decision by the executive director of the institution or the person the executive director authorizes in writing and must comply with the conditions prescribed by regulation. A detailed report on the placement, mentioning the grounds for it and its duration, must be entered in the child's record. The information contained in the regulation must be given and explained to both the child, if he is able to understand it, and the child's parents. The child or the parents may refer the executive director's decision to the tribunal. Such an application is heard and decided by preference.

Where the child's situation is being reassessed, the executive director or the person the executive director authorizes in writing may, during a transition period and if the child's situation requires it, allow the child to engage in activities outside the intensive supervision unit, in accordance with the conditions prescribed by regulation, with a view to returning the child to an open rehabilitation unit.

Placement in an intensive supervision unit must end as soon as the serious risk of danger no longer exists and the situation warranting the measure is not likely to recur in the short term. In the case of an immediate protective measure, the placement may not exceed the period prescribed in section 46.

2006, c. 34, s. 8; I.N. 2016-01-01 (NCCP); 2017, c. 18, s. 7.

11.1.2. If the child is placed in an open rehabilitation unit in an institution operating a rehabilitation centre following an immediate protection measure or an order issued by the tribunal under this Act, and there is reasonable cause to believe that the child is at risk of running away and thus placing himself or others in danger, without the child's situation warranting placement in an intensive supervision unit, the child may be the subject of a measure intended to prevent him from leaving the facilities maintained by the institution.

The measure intended to prevent the child from leaving the facilities maintained by the institution must be aimed at ensuring the safety of the child, putting an end to the situation placing the child or others in danger, and preventing the recurrence of such a situation in the short term. It must also be aimed at helping maintain the child in the open rehabilitation unit in which he has been placed.

Such a measure may be used only following a decision by the executive director of the institution or the person the executive director authorizes in writing and must comply with the conditions prescribed by regulation. A detailed report on the measure, mentioning the grounds for it and its duration, must be entered in the child's record. The information contained in the regulation must be given and explained to both the child, if he is able to understand it, and the child's parents. The child or the parents may refer the executive director's decision to the tribunal. Such an application is heard and decided by preference.

The measure must end as soon as the risk of the child running away and thus placing himself in danger no longer exists and the situation warranting the measure is not likely to recur in the short term. It must also end if the child's situation, after reassessment, warrants placement in an intensive supervision unit. In the case of an immediate protective measure, the placement may not exceed the period prescribed in section 46.

2017, c. 18, s. 8.

11.2. *(Repealed).*

1984, c. 4, s. 9; 1994, c. 35, s. 11; 2017, c. 12, s. 55; 2022, c. 11, s. 12.

11.2.1. *(Repealed).*

2006, c. 34, s. 9; 2017, c. 18, s. 9; 2022, c. 11, s. 12.

11.3. Sections 6.2, 7 to 9 and 10 apply also to any child and, with the necessary modifications, any person 18 years of age or over who are placed in an institution operating a rehabilitation centre and who have committed an offence against an Act or a regulation in force in Québec or who are awaiting a decision of the tribunal regarding the commission of such an offence.

1984, c. 4, s. 9; 2017, c. 18, s. 10; 2022, c. 11, s. 13.

DIVISION III

PARENTS' RESPONSIBILITIES

2022, c. 11, s. 14.

11.4. Parents have not only rights in respect of their child, but also obligations towards him. An intervention made in respect of a child under this Act does not deprive his parents of the rights conferred on them and does not relieve them of their obligations under the Civil Code as the persons having parental authority, unless a provision of this Act provides otherwise.

Consequently, the parents, in particular,

- (a) have the rights and duties of custody, supervision and education of their children;
- (b) shall maintain their children; and
- (c) exercise parental authority together.

2022, c. 11, s. 14.

11.5. The parents must, whenever possible, take an active part in implementing the measures designed to put an end to and prevent the recurrence of the situation in which the security or development of their child is in danger.

2022, c. 11, s. 14.

CHAPTER III

BODY AND PERSONS ENTRUSTED WITH YOUTH PROTECTION

DIVISION I

COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE

1989, c. 53, s. 12; 1995, c. 27, s. 9.

12. *(Repealed).*

1977, c. 20, s. 12; 1989, c. 53, s. 2; 1995, c. 27, s. 10.

13. *(Repealed).*

1977, c. 20, s. 13; 1989, c. 53, s. 12; 1995, c. 27, s. 10.

14. *(Repealed).*

1977, c. 20, s. 14; 1995, c. 27, s. 10.

15. *(Repealed).*

1977, c. 20, s. 15; 1981, c. 2, s. 4; 1989, c. 53, s. 12; 1995, c. 27, s. 10.

16. *(Repealed).*

1977, c. 20, s. 16; 1989, c. 53, s. 12; 1995, c. 27, s. 10.

17. *(Repealed).*

1977, c. 20, s. 17; 1989, c. 53, s. 12; 1995, c. 27, s. 10.

18. *(Repealed).*

1977, c. 20, s. 18; 1989, c. 53, s. 12; 1995, c. 27, s. 10.

19. *(Repealed).*

1977, c. 20, s. 19; 1995, c. 27, s. 10.

20. *(Repealed).*

1977, c. 20, s. 20; 1989, c. 53, s. 12; 1995, c. 27, s. 10.

21. *(Repealed).*

1977, c. 20, s. 21; 1989, c. 53, s. 12; 1995, c. 27, s. 10.

22. *(Repealed).*

1977, c. 20, s. 22; 1989, c. 53, s. 12; 1995, c. 27, s. 10.

23. The Commission shall, in conformity with the other provisions of this Act, discharge the following duties:

(a) it shall ensure, by any appropriate measures, the promotion and protection of the rights of children which are recognized by this Act and the Youth Criminal Justice Act (Statutes of Canada, 2002, chapter 1);

(b) upon an application or of its own motion, it shall investigate any situation where it has reason to believe that the rights of a child or of a group of children have been encroached upon by persons, institutions or bodies, even if at the time of the investigation the intervention under this Act has ended, unless the tribunal is already seized of it;

(c) it shall take the legal means it considers necessary to remedy any situation where the rights of a child are being encroached upon;

(d) it shall prepare and implement information and educational programs on the rights of children for the benefit of the public in general and of children in particular;

(e) it may, at all times, make recommendations, in particular, to the Minister of Health and Social Services, the Minister of Education, Recreation and Sports, the Minister of Higher Education, Research, Science and Technology and to the Minister of Justice;

(f) it may carry out or cause to be carried out studies and research on any question related to its competence, of its own motion or at the request of the Minister of Health and Social Services and of the Minister of Justice.

1977, c. 20, s. 23; 1981, c. 2, s. 5; 1984, c. 4, s. 10; 1985, c. 21, s. 81; 1985, c. 23, s. 24; 1988, c. 21, s. 119; 1988, c. 41, s. 88; 1989, c. 53, s. 11, s. 12; 1992, c. 21, s. 375; 1993, c. 51, s. 45; 1994, c. 16, s. 50; 1995, c. 27, s. 11; 2005, c. 28, s. 195; 2006, c. 34, s. 73; 2013, c. 28, s. 202; 2017, c. 18, s. 11.

23.1. The duty provided for in paragraph *b* of section 23 must be discharged by a group of not less than three members of the Commission designated by the president.

However, the decision to hold an investigation, to file an application for the disclosure of information under the second paragraph of section 72.5 or to disclose information under the second paragraph of section

72.6 or under section 72.7 shall be made by the president or by a person designated by the president from among the members of the Commission or its personnel.

The Commission may review the decision to hold an investigation made under the second paragraph.

1981, c. 2, s. 6; 1984, c. 4, s. 10; 1989, c. 53, s. 3; 1994, c. 35, s. 14; 1995, c. 27, s. 12; 2002, c. 34, s. 6.

24. The duties provided for in paragraph *c* of section 23 and in sections 25.2 and 25.3 may be discharged, on behalf of the Commission, by a group of members designated pursuant to the first paragraph of section 23.1.

1977, c. 20, s. 24; 1984, c. 4, s. 11; 1989, c. 53, s. 12; 1995, c. 27, s. 13.

25. A member of the Commission or any person in its employment may, with the written authorization of a justice of the peace, enter premises in which he has reasonable cause to believe there is a child whose security or development is or may be considered to be in danger and where entry is necessary for the purposes of an inquiry of the Commission.

The justice of the peace may grant the authorization, subject to such conditions as he may specify therein, if he is satisfied on the basis of an affidavit by the member of the Commission or the person in the employment of the Commission that there is reasonable cause to believe that there is therein a child whose security or development is or may be considered to be in danger and if entry therein is necessary for the purposes of an inquiry. The authorization, whether acted upon or not, shall be returned to the justice of the peace who granted it, within 15 days after its issue.

No authorization is required, however, if the conditions for obtaining it exist and if, owing to exigent circumstances, the time necessary to obtain the authorization may result in danger to the security of a child.

1977, c. 20, s. 25; 1984, c. 4, s. 12; 1986, c. 95, s. 246; 1989, c. 53, s. 12; 1999, c. 40, s. 226; I.N. 2016-01-01 (NCCP).

25.1. *(Repealed).*

1984, c. 4, s. 12; 1989, c. 53, s. 12; 1995, c. 27, s. 14.

25.2. The Commission may recommend the cessation of the alleged act or the carrying out, within the time it may fix, of any measure designed to remedy the situation.

1984, c. 4, s. 12; 1989, c. 53, s. 12.

25.3. The Commission may refer the matter to the tribunal when its recommendation has not been complied with within the fixed time.

1984, c. 4, s. 12; 1988, c. 21, s. 119; 1989, c. 53, s. 11, s. 12.

26. A member of the Commission or a person in its employment may, at any reasonable time or at any time in an emergency, enter any facility maintained by an institution to consult on the premises the record relating to the case of a child and make copies thereof. Where the member is exercising the responsibility provided for in paragraph *b* of section 23, the member may also consult the record of a child regarding whom an intervention has ended, including because the child has reached 18 years of age.

The institution shall, on request, transmit a copy of the record to the Commission.

In addition, every person and every body that treats or has treated a child who is or has been the subject of an intervention under this Act or whose parents are or have been the subject of such an intervention or that provides or has provided services to such a child or to his parents must give the member of the Commission

or the person in its employment, on request, a copy of any information from a record relating to the case of a child and that is necessary for the conduct of an investigation under paragraph *b* of section 23.

1977, c. 20, s. 26; 1984, c. 4, s. 12; 1986, c. 95, s. 247; 1989, c. 53, s. 12; 1992, c. 21, s. 215, s. 375; 1994, c. 23, s. 23; 2017, c. 18, s. 12; 2022, c. 11, s. 15.

26.1. Every person acting under section 25 or 26 shall, on request, identify himself and produce a certificate of his capacity.

1986, c. 95, s. 248.

27. The Commission shall keep a file of the information communicated to it. The name of a child and that of his parents, and any other information making it possible to identify them must be removed from the file not later than on the child's reaching 18 years of age. However, if a file is opened for the purposes of an investigation that is continued or conducted after the child has reached that age, the information must be removed not later than 30 days after the end of the investigation.

1977, c. 20, s. 27; 1984, c. 4, s. 12; 1989, c. 53, s. 12; 1994, c. 35, s. 15; 2017, c. 18, s. 13.

DIVISION I.1

MINISTER OF HEALTH AND SOCIAL SERVICES

2022, c. 11, s. 16.

28. The Minister of Health and Social Services is by virtue of office the Government's adviser on all issues relating to youth protection or to children and families in vulnerable situations; the Minister may, for such purpose, provide the other ministers with any advice the Minister considers appropriate.

The Minister must be consulted whenever a ministerial decision is made involving the interests of children or the respect of their rights in relation to youth protection.

1977, c. 20, s. 28; 1978, c. 15, s. 140; 1983, c. 55, s. 161; 1989, c. 53, s. 12; 1995, c. 27, s. 15; 2022, c. 11, s. 16.

DIVISION I.2

NATIONAL DIRECTOR OF YOUTH PROTECTION

2022, c. 11, s. 16.

§ 1. — *Responsibilities*

2022, c. 11, s. 16.

29. The National Director of Youth Protection, appointed under section 5.1.1 of the Act respecting the Ministère de la Santé et des Services sociaux (chapter M-19.2), exercises, in addition to the responsibilities assigned to him under that section, the following responsibilities:

(a) ensuring the follow-up of care and service trajectories of children whose situation is taken in charge by a director and measuring the effects of the interventions;

(b) determining the policy directions and the clinical practice and management standards applicable to youth protection;

(c) exercising the controls required to ensure that youth protection interventions follow generally accepted standards and that they are adequate from a scientific, human and social standpoint;

(d) exercising leadership and supporting the action of directors in the exercise of their responsibilities; and

(e) coordinating, where he considers it necessary and to the extent he deems appropriate, any intervention involving the intervention of more than one director or of another competent authority.

A director of youth protection is required to comply with the directives given to him by the National Director of Youth Protection in the exercise of his responsibilities.

1977, c. 20, s. 29; 1989, c. 53, s. 12; 1995, c. 27, s. 15; 2022, c. 11, s. 16.

30. In exercising the responsibilities set out in section 29, the National Director of Youth Protection may, in particular, whenever he deems it necessary,

(a) call on outside experts to report on one or more specific points he determines;

(b) conduct or commission studies, research or surveys to obtain background on a matter on which he must provide an opinion or produce a report; and

(c) request the collaboration of institutions or bodies by asking them to provide any expertise they have and that is necessary to him or to produce an analysis, advisory report or opinion on an issue on which the National Director must himself provide an opinion or produce a report.

1977, c. 20, s. 30; 1989, c. 53, s. 12; 1995, c. 27, s. 15; 2022, c. 11, s. 16.

30.1. Government departments, public bodies or institutions must provide the National Director of Youth Protection with the information and documents he requires and that are necessary to the exercise of his responsibilities under section 29.

They must allow the National Director to examine and make copies of the information or documents they have, whatever their form.

2022, c. 11, s. 16.

30.2. The National Director of Youth Protection may, if he deems it expedient, hold an inquiry as part of the exercise of his responsibilities.

For the purposes of an inquiry, the National Director or any other person designated by him to conduct the inquiry is vested with the powers and immunity provided for in the Act respecting public inquiry commissions (chapter C-37), except the power to order imprisonment.

2022, c. 11, s. 16.

30.3. Where the National Director of Youth Protection finds that a director of youth protection is not applying the directives, policy directions, clinical practice and management standards or the standards referred to in section 29, the National Director may, as he considers appropriate,

(1) require that corrective measures he determines be taken within the time he specifies;

(2) require that the institution operating a child and youth protection centre concerned submit an action plan to him, within the time he specifies, in response to the recommendations he has made.

2022, c. 11, s. 16.

30.4. The National Director of Youth Protection may, if a director of youth protection is unable to act, commits a serious fault or tolerates a situation which could endanger the security or development of a child, entrust the functions and powers vested in that director of youth protection to another director of youth

protection or to a person the National Director designates, for the time and on the conditions he considers appropriate. He shall immediately notify the president and executive director and the board of directors of the institution concerned of the decision.

2022, c. 11, s. 16.

§ 2. — *Panel of directors*

2022, c. 11, s. 16.

30.5. A panel of directors is established under the name “Table des directeurs”, consisting of the National Director of Youth Protection and each of the directors of youth protection.

Each member of the panel must designate a person to represent them when they are unable to participate.

Members of the panel may solicit the participation, on an ad hoc or permanent basis, of experts or other stakeholders concerned with youth protection.

2022, c. 11, s. 16.

30.6. The purpose of the panel of directors is to enable its members

(a) to develop and harmonize clinical practices in youth protection, by drawing in particular on the expertise of its members in carrying out their responsibilities;

(b) to ensure that policy directions and clinical practice standards are implemented and complied with in all the regions of Québec; and

(c) to ensure the development and continuous adaptation of training in youth protection based on the evolution of clinical practices.

The panel also aims to enable its members to take up any issue submitted to them by the National Director of Youth Protection.

2022, c. 11, s. 16.

30.7. The National Director of Youth Protection presides at meetings of the panel of directors and determines its mode of operation.

2022, c. 11, s. 16.

§ 3. — *Reporting*

2022, c. 11, s. 16.

30.8. The National Director of Youth Protection shall report annually to the Minister of Health and Social Services, not later than six months after the end of the fiscal year, on the exercise of his responsibilities and those of the panel of directors.

The report shall be published on the website of the Ministère de la Santé et des Services sociaux.

2022, c. 11, s. 16.

DIVISION II

DIRECTOR OF YOUTH PROTECTION

31. A director of youth protection shall be appointed for each institution operating a child and youth protection centre; the director shall act under the direct authority of the president and executive director of the institution.

1977, c. 20, s. 31; 1984, c. 4, s. 13; 1992, c. 21, s. 216; 1994, c. 35, s. 16; 2005, c. 32, s. 308; 2022, c. 11, s. 17.

31.0.1. The director shall be appointed by the institution's board of directors from a list of candidates submitted to it by a selection committee.

The Minister shall, by a directive, prescribe the procedure for recruiting and selecting persons qualified for appointment as directors, in particular the professional qualifications required of the candidates and the composition of the selection committee.

2022, c. 11, s. 17.

31.1. If the director is absent or unable to act, he is replaced by a person designated by the board of directors who appointed him.

1981, c. 2, s. 7; 1999, c. 40, s. 226.

31.2. The board of directors of an institution operating a child and youth protection centre may not dismiss a director or reduce his salary except by a resolution adopted, at a meeting called for that purpose, by not less than two-thirds of the votes of all its members.

1984, c. 4, s. 14; 1992, c. 21, s. 217; 1994, c. 35, s. 18.

31.3. The director must see to it that, within the institution operating a child and youth protection centre, practices are maintained and resources are allocated so as to enable the director to properly exercise his responsibilities.

The board of directors of an institution shall, on a quarterly basis, hear the director on the exercise of his responsibilities and the operation of the child and youth protection centre.

2022, c. 11, s. 18.

32. The director and the members of his staff authorized by him for that purpose have the following exclusive duties:

(a) to receive reports regarding children, analyze them briefly and decide whether they must be evaluated further;

(b) to assess a child's situation and living conditions and decide whether the child's security or development is in danger;

(c) to decide on the direction of a child;

(d) to review the situation of a child;

(e) to put an end to the intervention if a child's security or development is not or is no longer in danger;

(f) to exercise tutorship or, in the cases provided for in this Act, apply to the tribunal for the appointment or replacement of a tutor;

(g) to receive the general consents required for adoption and the consents referred to in section 3 of the Act to implement the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (chapter M-35.1.3);

(h) to apply to the tribunal for a declaration of eligibility for adoption;

(h.1) to give the authority that is competent to issue an Aboriginal customary tutorship or adoption certificate the opinion required under section 131.18;

(i) to decide to file an application for an order for the disclosure of information under the second paragraph of section 72.5.

Despite the first paragraph, the director may, if the director considers that the situation warrants it, authorize, in writing and to the extent the director specifies, a person who is not a member of the director's staff to assess a child's situation and living conditions as provided for in subparagraph *b* of the first paragraph if the person is

(a) a member of the personnel of an institution operating a child and youth protection centre; or

(b) a member of the personnel of an institution operating a rehabilitation centre for young persons with adjustment problems;

(c) *(subparagraph repealed)*.

Authorization granted to a person who is not a member of the director's staff is valid only for the purposes of the assessment and not for the purpose of deciding whether the child's security or development is in danger. The director may withdraw the authorization at any time.

Where the decision on the directing of the child involves the application of an agreement on a short-term intervention or on voluntary measures, the director may decide personally to reach an agreement on such measures with only one of the parents to the extent that the conditions set out in the second paragraph of section 52.1 are met.

1977, c. 20, s. 32; 1984, c. 4, s. 15; 1988, c. 21, s. 119; 1989, c. 53, s. 11; 1994, c. 35, s. 19; 2006, c. 34, s. 10; 2009, c. 45, s. 8; 2017, c. 12, s. 56; 2017, c. 18, s. 14; 2022, c. 11, s. 19.

33. The director may, in writing and to the extent he may indicate, authorize a natural person to perform one or more of his duties, except those listed in section 32.

1977, c. 20, s. 33; 1982, c. 17, s. 62; 1984, c. 4, s. 15.

33.1. The director may, at any time, terminate an authorization.

1984, c. 4, s. 15; 1985, c. 23, s. 15.

33.2. The authorization must be signed by the director or, in his name, by any person authorized by him for that purpose. The required signature may, however, be affixed by means of a facsimile of the signature of the director, provided that the document is countersigned by a person under the authority of the director and authorized for that purpose.

1984, c. 4, s. 15.

33.3. The director has the powers of a "provincial director" under the Youth Criminal Justice Act (Statutes of Canada, 2002, chapter 1).

1984, c. 4, s. 15; 2006, c. 34, s. 73.

34. Within the scope of this Act, the services provided by an institution which operates a child and youth protection centre, except those mentioned in Chapter IV.0.1, must be available 24 hours per day, every day of the week.

1977, c. 20, s. 34; 1992, c. 21, s. 218; 1994, c. 35, s. 20; 2017, c. 12, s. 57.

35. In no case may the director or any person acting under section 32 or 33 be prosecuted for acts done in good faith in the performance of his duties.

1977, c. 20, s. 35; 1984, c. 4, s. 16.

35.1. The director or any person acting under section 32 or 33 may inquire into any matter within the competence of the director.

1984, c. 4, s. 16; 1986, c. 95, s. 249.

35.2. On the application of a person referred to in section 35.1 or of a peace officer, a justice of the peace may authorize in writing the director, any person acting under section 32 or 33 or any peace officer to search for a child and bring him before the director.

The justice of the peace may grant the authorization, subject to such conditions as he may specify therein, if he is satisfied on the basis of an affidavit by the person applying for the authorization that the child's situation has been brought to the attention of the director or that there is reasonable cause to believe that his security or development is or may be considered to be in danger and that it is necessary to search for him and bring him before the director.

The authorization shall be returned to the justice of the peace who granted it.

1986, c. 95, s. 249; I.N. 2016-01-01 (NCCP).

35.3. A person referred to in section 35.1 or a peace officer may, with the written authorization of a justice of the peace, enter premises to search for a child and bring him before the director if he has reasonable cause to believe that the child is to be found there and that his situation has been brought to the attention of the director or his security or development is or may be considered to be in danger.

The justice of the peace may grant the authorization, subject to such conditions as he may specify therein, if he is satisfied on the basis of an affidavit by the director, the person acting under section 32 or 33 or the peace officer that there is reasonable cause to believe that there is therein a child whose situation has been brought to the attention of the director or whose security or development is or may be considered to be in danger and that entry therein is necessary to search for the child and bring him before the director. The authorization, whether acted upon or not, shall be returned to the justice of the peace who granted it, within 15 days after its issue.

No authorization is required, however, if the conditions for obtaining it exist and if, owing to exigent circumstances, the time necessary to obtain the authorization may result in danger to the security of a child.

1986, c. 95, s. 249; 1999, c. 40, s. 226; I.N. 2016-01-01 (NCCP).

35.4. A person referred to in section 35.1 may require an institution, body or professional to disclose to him information concerning the child, either of the child's parents or another person involved in a report if any of the following conditions is met:

(a) such information reveals or confirms the existence of a situation related to the grounds alleged by the director to the effect that the security or development of the child is in danger, the knowledge of which could justify, as applicable,

(1) accepting the report for evaluation,

(2) deciding whether the security or development of the child is in danger or remains so, or

(3) deciding as to the directing of the child, or

(b) such information makes it possible to confirm or deny the existence of a situation related to new events that have occurred since the decision on the child's security or development being in danger was made, the knowledge of which could make it possible to review the child's situation.

A person referred to in section 35.1 may also,

(a) if the person considers it necessary to ensure the protection of a child with regard to whom that person has accepted a report, enter, at any reasonable time or at any time during an emergency, a facility maintained by an institution or premises kept by a body or in which a professional practises their profession to examine on-site the record of the child and make copies of it;

(b) if so authorized by the tribunal, examine on-site, in a facility maintained by an institution or in premises kept by a body or in which a professional practises their profession, the record of a parent or of another person involved in a report that is necessary to ensure the protection of a child; and

(c) require from a person who has knowledge of any information or record referred to in this section the explanations needed to understand that information or the information contained in the record.

Any person having custody, possession or control of a record or knowledge of information referred to in this section shall make them available to the person referred to in section 35.1 and facilitate that person's examination of the record or information.

The first, second and third paragraphs apply even to persons who are bound by professional secrecy, except advocates and notaries.

2006, c. 34, s. 11; 2022, c. 11, s. 20.

36. A person referred to in section 35.1 may obtain from the office of the Superior Court a copy of a judgment or a pleading in a family matter that concerns a child who is the subject of a report.

1977, c. 20, s. 36; 1984, c. 4, s. 16; 1986, c. 95, s. 250; 1992, c. 21, s. 219, s. 375; 1994, c. 23, s. 23; 2001, c. 78, s. 10; 2006, c. 34, s. 12; 2022, c. 11, s. 20.

36.1. The director or every person acting under section 32 or 33 shall, if so requested when exercising the powers provided for in section 35.1, 35.2, 35.3, 35.4 or 36, identify himself and produce a certificate of his capacity.

1986, c. 95, s. 251; 2022, c. 11, s. 21.

37. A copy of every internal by-law of an institution operating a child and youth protection centre regarding the protection of youth and the application of this Act must be forwarded to the Commission, to the agency, to the Minister of Health and Social Services and, upon request, to the child and his parents.

1977, c. 20, s. 37; 1985, c. 23, s. 24; 1989, c. 53, s. 12; 1992, c. 21, s. 220; 1994, c. 35, s. 21; 2005, c. 32, s. 308.

37.1. Upon receiving a report stating that the security or development of a child is or may be considered to be in danger, the director must record the information and, if the director decides not to accept the report, he must keep the information in the record for two years after the decision or until the child has reached 18 years of age, whichever is shorter.

1984, c. 4, s. 17; 1994, c. 35, s. 22; 2006, c. 34, s. 13.

37.2. If, after accepting a report, the director decides that the security or development of the child is not in danger, the information in the record must be kept for five years after that decision or until the child has reached 18 years of age, whichever is shorter.

1984, c. 4, s. 17; 2006, c. 34, s. 13.

37.3. If the tribunal quashes the director's decision to the effect that the security or development of a child is in danger, the director must keep the information in the child's record for five years after the final decision or until the child has reached 18 years of age, whichever is shorter.

1984, c. 4, s. 17; 1988, c. 21, s. 119; 1989, c. 53, s. 11; 2006, c. 34, s. 13.

37.4. If the director or the tribunal decides that the security or development of the child is in danger, the director must keep the information contained in the child's record until he has reached 43 years of age, even if the director or the tribunal subsequently decides that the security or development of the child is no longer in danger.

1984, c. 4, s. 17; 1988, c. 21, s. 119; 1989, c. 53, s. 11; 2006, c. 34, s. 13; 2017, c. 18, s. 15; 2022, c. 11, s. 22.

37.4.1. When the tribunal appoints a tutor to the child and the director puts an end to his intervention in respect of that child in accordance with section 70.2, the director must keep the information in the child's record until the child has reached 43 years of age.

2017, c. 18, s. 15; 2022, c. 11, s. 22.

37.4.2. From the time the child reaches 18 years of age and subject to section 37.4.3, only the child may have access to the information kept in his record in accordance with the Act respecting health services and social services (chapter S-4.2).

2017, c. 18, s. 15; 2022, c. 11, s. 23.

37.4.3. The tribunal may, before the child reaches 18 years of age, for exceptional reasons, and for the period and on the conditions it determines, extend the retention period for the information in that child's record.

2017, c. 18, s. 15; 2022, c. 11, s. 24.

37.4.4. Psychosocial support services are to be offered to the person 14 years of age or over who accesses the information in his record.

These services are to be offered by an institution operating a child and youth protection centre.

2022, c. 11, s. 25.

37.4.5. The child may, from the moment he reaches 25 years of age and subject to the application of section 37.4.3, request an institution operating a child and youth protection centre to destroy the information contained in his record.

2022, c. 11, s. 25.

DIVISION III

Repealed, 2022, c. 11, s. 26.

2001, c. 33, s. 1; 2022, c. 11, s. 26.

37.5. *(Repealed).*

2001, c. 33, s. 1; 2022, c. 11, s. 26.

37.6. *(Repealed).*

2017, c. 18, s. 16; 2022, c. 11, s. 26.

37.7. *(Repealed).*

2017, c. 18, s. 16; 2022, c. 11, s. 26.

DIVISION IV

EDUCATION NETWORK ORGANIZATIONS

2017, c. 18, s. 17.

37.8. Every institution operating a child and youth protection centre must enter into an agreement with a school service centre in the region served by the centre concerning the services to be provided to a child and his parents by the health and social services network and the education network if the child is the subject of a report for a situation of educational neglect in connection with the schooling the child receives or with the child's compliance with compulsory school attendance under subparagraph iii of subparagraph 1 of subparagraph *b* of the second paragraph of section 38.

The agreement must establish a method of cooperation to ensure the child's situation is monitored.

The agreement must cover, among other aspects, the continuity and complementarity of the services provided and the actions to be taken jointly. The parties are required to share the information necessary for the implementation of the agreement.

2017, c. 18, s. 17; 2020, c. 1, s. 312.

CHAPTER IV

SOCIAL INTERVENTION

DIVISION I

SECURITY AND DEVELOPMENT OF A CHILD

38. For the purposes of this Act, the security or development of a child is considered to be in danger if the child is in a situation of abandonment, neglect, psychological ill-treatment, exposure to domestic violence or sexual or physical abuse, or if the child has serious behavioural disturbances.

In this Act,

(a) "abandonment" refers to a situation in which a child's parents are deceased or fail to provide for the child's care, maintenance or education and those responsibilities are not assumed by another person in accordance with the child's needs;

(b) “neglect” refers to

(1) a situation in which the child’s parents or the person having custody of the child do not meet the child’s basic needs,

i. failing to meet the child’s basic physical needs with respect to food, clothing, hygiene or lodging, taking into account their resources;

ii. failing to give the child the care required for the child’s physical or mental health, or not allowing the child to receive such care; or

iii. failing to provide the child with the appropriate supervision or support, or failing to take the necessary steps to ensure that the child receives a proper education and, if applicable, that he attends school as required under the Education Act (chapter I-13.3) or any other applicable legislation; or

(2) a situation in which there is a serious risk that a child’s parents or the person having custody of the child are not providing for the child’s basic needs in the manner referred to in subparagraph 1;

(c) “psychological ill-treatment” refers to a situation in which a child is seriously or repeatedly subjected to behaviour on the part of the child’s parents or another person that could cause harm to the child, and the child’s parents fail to take the necessary steps to put an end to the situation. Such behaviour includes in particular indifference, denigration, emotional rejection, excessive control, isolation, threats, exploitation, particularly if the child is forced to do work disproportionate to the child’s capacity, and exposure to family violence;

(c.1) “exposure to domestic violence” refers to a situation in which a child is directly or indirectly exposed to violence between the child’s parents or between one of his parents and a person with whom the parent has an intimate relationship, including in a post-separation context, among other things if the child witnesses such violence or develops in an atmosphere of fear or tension, and where such exposure could cause harm to the child;

(d) “sexual abuse” refers to

(1) a situation in which the child is subjected to gestures of a sexual nature by the child’s parents or another person, with or without physical contact, including any form of sexual exploitation, and the child’s parents fail to take the necessary steps to put an end to the situation; or

(2) a situation in which the child runs a serious risk of being subjected to gestures of a sexual nature by the child’s parents or another person, with or without physical contact, including a serious risk of sexual exploitation, and the child’s parents fail to take the necessary steps to put an end to the situation;

(e) “physical abuse” refers to

(1) a situation in which the child is the victim of bodily injury or is subjected to unreasonable methods of upbringing by his parents or another person, and the child’s parents fail to take the necessary steps to put an end to the situation; or

(2) a situation in which the child runs a serious risk of becoming the victim of bodily injury or being subjected to unreasonable methods of upbringing by his parents or another person, and the child’s parents fail to take the necessary steps to put an end to the situation;

(f) “serious behavioural disturbance” refers to a situation in which a child behaves in such a way as to repeatedly or seriously undermine the child’s or others’ physical or psychological integrity, and the child’s parents fail to take the necessary steps to put an end to the situation or, if the child is 14 or over, the child objects to such steps.

1977, c. 20, s. 38; 1981, c. 2, s. 8; 1984, c. 4, s. 18; 1994, c. 35, s. 23; 2006, c. 34, s. 14; 2016, c. 12, s. 36; 2017, c. 18, s. 18; 2022, c. 11, s. 27.

38.1. The security or development of a child may be considered to be in danger where

(a) he leaves his own home, a foster family, a facility maintained by an institution operating a rehabilitation centre or a hospital centre without authorization while his situation is not under the responsibility of the director of youth protection;

(b) *(paragraph repealed)*;

(c) his parents do not carry out their obligations to provide him with care, maintenance and education or do not exercise stable supervision over him, while he has been entrusted to the care of an institution or foster family for one year.

1984, c. 4, s. 18; 1989, c. 53, s. 4; 1992, c. 21, s. 221, s. 375; 1994, c. 35, s. 24; 2017, c. 18, s. 19.

38.2. A decision to determine whether a report must be accepted for evaluation or whether the security or development of a child is in danger must take the following factors into consideration:

(a) the nature, gravity, persistence and frequency of the facts reported;

(b) the child's age and personal characteristics;

(c) the capacity and the will of the parents to put an end to the situation in which the security or development of the child is in danger;

(d) the community resources available to help the child and the child's parents.

2006, c. 34, s. 15.

38.2.1. For the purposes of section 38.2, any decision relating to a report for a situation of educational neglect in connection with the schooling a child receives or with the child's compliance with compulsory school attendance must, in particular, take into consideration the following factors:

(a) the consequences for the child of not attending school or of being absent from school, in particular with regard to his social integration ability;

(b) the child's level of development in relation to his age and personal characteristics;

(c) the measures taken by the parents to ensure the child receives proper schooling, including academic supervision of the child and cooperation with local resources, including school resources; and

(d) the local resources' ability to support the parents in carrying out their responsibilities and to help the child make progress in his learning.

If the nature of the report warrants it, the assessment of the child's ability to re-enter the school system, the evaluation of the child's academic development and the measures taken by the parents with regard to the conditions in which the child's learning is to occur in a home-schooling context must also be taken into consideration. Those factors must be considered in the manner stipulated in the agreement described in section 37.8.

2017, c. 18, s. 20.

38.2.2. For the purposes of section 38.2, any decision relating to a report for a situation of exposure to domestic violence must, in particular, take into consideration the following factors:

(a) the consequences for the child of exposure to such violence;

(b) the acknowledgment of the consequences for the child by the perpetrator of the violence and the means taken by the perpetrator to prevent other situations of exposure to violence, if applicable;

(c) the measures taken by the parent who is not the perpetrator of the violence to protect the child from exposure to such violence and the obstacles to such measures caused by the perpetrator of the violence, if applicable;

(d) the local resources' ability to support the parents in carrying out their responsibilities; and

(e) the order, condition or measure, whether civil or criminal in nature, concerning the security or development of the child.

2022, c. 11, s. 28.

38.3. No ideological or other consideration, including one based on a concept of honour, can justify any situation described in sections 38 and 38.1.

2016, c. 12, s. 37.

39. Every professional who, by the very nature of his profession, provides care or any other form of assistance to children and who, in the practice of his profession, has reasonable grounds to believe that the security or development of a child is or may be considered to be in danger within the meaning of section 38 or 38.1, must bring the situation to the attention of the director without delay. The same obligation is incumbent upon any employee of an institution, any teacher, any person working in a childcare establishment or any policeman who, in the performance of his duties, has reasonable grounds to believe that the security or development of a child is or may be considered to be in danger within the meaning of the said provisions.

Any person, other than a person referred to in the first paragraph, who has reasonable grounds to believe that the security or development of a child is considered to be in danger within the meaning of subparagraphs *d* and *e* of the second paragraph of section 38 must bring the situation to the attention of the director without delay.

Any person, other than a person referred to in the first paragraph, who has reasonable grounds to believe that the security or development of a child is or may be considered to be in danger within the meaning of subparagraph *a*, *b*, *c*, *c.1* or *f* of the second paragraph of section 38 or within the meaning of section 38.1 may bring the situation to the attention of the director.

1977, c. 20, s. 39; 1981, c. 2, s. 9; 1984, c. 4, s. 19; 1992, c. 21, s. 375; 1994, c. 35, s. 25; 2006, c. 34, s. 16; 2017, c. 18, s. 21; 2022, c. 11, s. 29.

39.1. Any person who is required to report physical abuse or sexual abuse under section 39 must do so regardless of any steps taken by the parents to put an end to the situation.

2006, c. 34, s. 17.

40. The person who reported a child's situation under section 39 may communicate to the director any relevant information relating to the report about the child's situation, with a view to ensuring the child's protection.

The same applies to the person who, in the practice of a profession or the performance of a duty referred to in the first paragraph of that section, was involved in making such a report.

1977, c. 20, s. 40; 1981, c. 2, s. 10; 1981, c. 7, s. 536; 1984, c. 4, s. 20; 2022, c. 11, s. 30.

41. Sections 39 and 40 apply even to persons who are bound by professional secrecy, except advocates and notaries who, in the practice of their profession, receive information concerning a situation described in section 38 or 38.1.

1977, c. 20, s. 41; 1989, c. 53, s. 12; 2006, c. 34, s. 18; 2022, c. 11, s. 30.

42. An adult is bound to bring the necessary assistance to a child who wishes to seize the competent authorities of a situation that endangers his security or development, that of his brothers and sisters or that of any other child.

1977, c. 20, s. 42.

43. No person may be prosecuted for acts done in good faith under section 39, 40 or 42.

1977, c. 20, s. 43; 2022, c. 11, s. 31.

44. No person shall reveal or be compelled to reveal the identity of a person who has acted in accordance with section 39, 40 or 42, without his consent.

1977, c. 20, s. 44; 2022, c. 11, s. 32.

DIVISION II

RECEIVING AND PROCESSING REPORTS

2006, c. 34, s. 19.

45. Any report to the effect that the security or development of a child is or may be considered to be in danger must be transmitted to the director. The director must consider the report, analyze it briefly and decide whether it is to be accepted for evaluation.

In a case where the situation of a group of five or more children is reported for educational neglect in connection with the schooling they receive or with their compliance with compulsory school attendance, the director must, during his analysis, make an additional verification in the children's family environment or any other environment the children frequent, unless the director has all the information necessary to accept the reports for evaluation.

1977, c. 20, s. 45; 1984, c. 4, s. 21; 2006, c. 34, s. 20, s. 74; 2017, c. 18, s. 22.

45.1. The director must inform the person who reported the situation of his decision to accept the report or not for evaluation.

2006, c. 34, s. 21; 2016, c. 12, s. 38; 2022, c. 11, s. 33.

45.2. If the director decides not to accept a report but is of the opinion that the child or one or both of the child's parents require assistance, the director must inform them of the services and resources available in their community. If they consent to it, the director must, in a personalized manner, advise them and direct them to the institutions, bodies or persons best suited to assist them and come to an agreement with the service provider on the terms of access to such service, in particular, on the time limit. In addition, if they consent to it, the director must forward the information relevant to the situation to the service provider.

Information on the services and resources available to them is given to the person requiring assistance and, in the case of a child under 14 years of age, to one or both of the child's parents. The required consents are also given by the person requiring assistance, except those for a child under 14 years of age, which are given by one of the child's parents.

Where the child requiring assistance is 14 years of age or older, the director may, if the child consents to it, inform one or both of the child's parents of the services and resources available in their community. In addition, where the child is directed to an institution, body or person in accordance with the first paragraph, the director may, if the child consents to it, inform one or both of the parents. Where the director directs the child without informing the parents, the director must meet with the child and the service provider.

2016, c. 12, s. 39.

DIVISION II.1

IMMEDIATE PROTECTIVE MEASURES

2006, c. 34, s. 21.

46. If the director accepts the report, he may take immediate protective measures to ensure the security of the child for a maximum period of 48 hours even before making an assessment to determine if the security or development of the child is in danger in accordance with section 49.

If the circumstances warrant it, the director may also take immediate protective measures for a maximum period of 48 hours at any point during the intervention, whether or not a new report has been made.

As far as possible, the child and the child's parents must be consulted with respect to the application of immediate protective measures.

The director may apply the following, as immediate protective measures:

- (a) immediate removal of the child from his present environment;
- (b) entrusting the child to an institution operating a rehabilitation centre or a hospital centre, to one of the child's parents, to a person who is important to the child, in particular a grandparent or another member of the extended family, to a foster family, to an appropriate body or to any other person without delay;
- (c) *(subparagraph repealed)*;
- (d) restricting contact between the child and his parents;
- (e) prohibiting the child from contacting certain persons designated by the director, or prohibiting those persons from contacting the child;
 - (e.1) prohibiting the disclosure of specific information to one or both of the parents or any other person designated by the director;
- (f) requiring a person to ensure that the child and his parents comply with the conditions imposed on them and to inform the director if the conditions are not complied with;
- (g) applying any other measure he considers necessary in the interest of the child.

Where it is decided to entrust the child to an institution referred to in subparagraph *b* of the fourth paragraph, the director shall specify whether or not foster care is included in the measure. The designated institution is bound to receive the child.

1977, c. 20, s. 46; 1981, c. 2, s. 11; 1984, c. 4, s. 22; 1992, c. 21, s. 222; 1994, c. 35, s. 26; 2006, c. 34, s. 22; 2016, c. 12, s. 40.

47. If the director proposes to extend the immediate protective measures and a child 14 years of age or over or the child's parents object, or if an order of the tribunal on the applicable measures is enforceable, the director must refer the matter to the tribunal, which, if it considers it necessary, orders the extension of the

immediate protective measures for not more than five working days. If there is no such objection or no such order, the director may also refer the matter to the tribunal, which orders such an extension if it considers it necessary.

The clerk may exercise the power conferred on the tribunal in the first paragraph if the judge is absent or unable to act and if a delay could cause serious harm to the child.

If the 48-hour period ends on a Saturday or a holiday, the judge and the clerk are absent or unable to act and the interruption of immediate protective measures could cause serious harm to the child, the director may extend the period until the following working day without an order.

1977, c. 20, s. 47; 1979, c. 42, s. 12; 1984, c. 4, s. 23; 1988, c. 21, s. 119; 1989, c. 53, s. 11; 1999, c. 40, s. 226; 2006, c. 34, s. 23; I.N. 2016-01-01 (NCCP); 2017, c. 18, s. 23.

47.1. If a child 14 years of age or over and the child's parents do not object to the extension of the immediate protective measures, the director may propose a provisional agreement until he decides whether the security or development of the child is in danger and, if applicable, reaches an agreement with them on a short-term intervention or on voluntary measures, or until he refers the matter to the tribunal.

The provisional agreement may cover a period of not more than 30 days, including the 10-day period provided for in section 52. However, such an agreement may be extended for a maximum period of 30 days if the situation so requires, in which case the 10-day period provided for in section 52 only applies to the extension of the agreement.

Changes may be made to the terms of such an agreement at any time with the parties' consent.

2006, c. 34, s. 23; 2017, c. 18, s. 24.

47.2. If the director proposes a provisional agreement to the child and his parents, he must inform them that a child 14 years of age or over and the child's parents may refuse to consent to such an agreement. However, if the parents of a child under 14 years of age accept the application of a provisional agreement, the director must encourage the child to adhere to it.

The director must also inform them that they may terminate the agreement at any time and that their consent does not constitute an acknowledgement that the security or development of the child is in danger.

2006, c. 34, s. 23.

47.3. The director may reach a provisional agreement with only one of the parents if the other parent cannot be found or is unable to express an opinion.

However, if the other parent comes forward during the application of the agreement, the director must allow that parent to submit observations, following which, with the consent of the parents and of the child, if 14 years of age or over, the director may make certain changes to the agreement if it is in the interest of the child to do so.

2006, c. 34, s. 23.

47.4. The provisional agreement must be recorded in writing and may contain one or more of the measures applicable under section 54.

2006, c. 34, s. 23.

47.5. A provisional agreement may also be proposed by the director, on the same conditions, without immediate protective measures having been taken beforehand.

2006, c. 34, s. 23.

48. Expenses of transportation and bed and board for a child provisionally entrusted to a foster family or an institution other than an establishment shall be charged to the institution operating the child and youth protection centre whose director has taken charge of the situation of the child.

During the period in which immediate protective measures are applied, the director may, if urgent, authorize the provision of medical services and other care he deems necessary to the child without the consent of the parents or an order of the tribunal. Every institution operating a hospital centre is then bound to admit the child entrusted to it by the director.

1977, c. 20, s. 48; 1984, c. 4, s. 24; 1988, c. 21, s. 119; 1989, c. 53, s. 11; 1992, c. 21, s. 223; 1994, c. 35, s. 28; 2006, c. 34, s. 24.

48.1. For the purposes of this division, an institution which operates a hospital centre to which the director has entrusted a child shall notify the director before the child is released in accordance with the Act respecting health services and social services (chapter S-4.2) or the Act respecting health services and social services for Cree Native persons (chapter S-5).

1984, c. 4, s. 25; 1992, c. 21, s. 224; 1994, c. 23, s. 23.

DIVISION III

ASSESSING THE SITUATION AND DIRECTING THE CHILD

1994, c. 35, s. 29.

§ 1. — Director's decision on whether the security or development of a child is in danger

2017, c. 18, s. 25.

49. If the director considers admissible the report to the effect that the security or development of a child is or may be considered to be in danger, he shall assess the child's situation and living conditions. He shall decide whether or not the child's security or development is in danger.

1977, c. 20, s. 49; 1984, c. 4, s. 26; 2006, c. 34, s. 74.

50. Where the director establishes that the security or development of the child is not in danger, he must inform the child and his parents and notify the person who had brought the situation to his attention.

1977, c. 20, s. 50; 1994, c. 35, s. 30; 2006, c. 34, s. 25; 2016, c. 12, s. 41.

50.1. Where the director establishes that the security or development of the child is not in danger, but the director is of the opinion that the child or one or both of the child's parents require assistance, the director is subject to the obligations set out in section 45.2.

2016, c. 12, s. 42.

51. Where the director is of the opinion that the security or development of a child is in danger, he shall take charge of the situation of the child and decide whereto he is to be directed. For that purpose, before proposing an agreement on a short-term intervention or on voluntary measures, or referring the matter to the tribunal, the director shall favour the means that encourage the active participation of the child and the child's parents, if the circumstances are appropriate.

The director informs the person referred to in the first paragraph of section 39 who had brought the situation of the child to his attention that the situation has been taken in charge.

1977, c. 20, s. 51; 1981, c. 2, s. 12; 1984, c. 4, s. 27; 1988, c. 21, s. 119; 1989, c. 53, s. 11; 1994, c. 35, s. 31; 2006, c. 34, s. 26; 2017, c. 18, s. 26.

§ 2. — *Agreement on a short-term intervention*

2017, c. 18, s. 27.

51.1. Where the director considers that he is able, in the short term, to put an end to an intervention with a child whose situation he has taken charge of, the director may propose an agreement on a short-term intervention to the parents and child.

Such an agreement must include the measures most conducive to putting an end to the situation endangering the security or development of the child and preventing its recurrence.

2017, c. 18, s. 27.

51.2. The director may propose that the agreement on a short-term intervention include the measures applicable under section 54, except those entrusting a child to an alternative living environment.

2017, c. 18, s. 27.

51.3. An agreement on a short-term intervention may be for a maximum period of 60 days after the director's decision to the effect that the security or development of the child is in danger.

It must be recorded in writing and may not be renewed.

2017, c. 18, s. 27.

51.4. When proposing an agreement on a short-term intervention to the parents and child, the director must inform them that parents and a child 14 years of age or over have the right to refuse such an agreement. However, he must encourage a child under 14 years of age to adhere to the agreement if the child's parents accept it.

2017, c. 18, s. 27.

51.5. If one of the parents or the child 14 years of age or over, parties to the agreement on a short-term intervention, withdraws from the agreement or the agreement ends before its expiry and if, in either case, the security or development of the child remains in danger, the director must propose an agreement on voluntary measures to the parents and child or refer the child's situation to the tribunal.

2017, c. 18, s. 27.

51.6. If the security or development of the child is no longer in danger at the expiry of an agreement on a short-term intervention, the director shall put an end to his intervention. Otherwise, he shall propose an agreement on voluntary measures to the parents and child or refer the child's situation to the tribunal.

2017, c. 18, s. 27.

51.7. Before reaching an agreement on a short-term intervention with the parents and child, the director must inform them of his obligations in the event that they withdraw from the agreement or that the agreement ends otherwise, regardless of when, and the security or development of the child remains in danger.

Before putting an end to the intervention or deciding on a new direction for the child in accordance with sections 51.5 and 51.6, the director must meet with the parents and child.

2017, c. 18, s. 27.

51.8. Sections 52.1 and 55 and the first paragraph of section 57.2.1 apply, with the necessary modifications, to short-term interventions.

2017, c. 18, s. 27.

§ 3. — *Agreement on voluntary measures*

2017, c. 18, s. 27.

52. When proposing an agreement on voluntary measures to the parents and child, the director must, before reaching an agreement with them, inform them that parents and a child 14 years of age or over have the right to refuse such an agreement. However, he must encourage a child under 14 years of age to adhere to the agreement if the child's parents accept it.

Any agreement on voluntary measures must contain the measures most appropriate to put an end to and prevent the recurrence of the situation in which the security or development of the child is in danger.

The director must refer the child's situation to the tribunal if no agreement is reached within 10 days and the security or development of the child remains in danger.

1977, c. 20, s. 52; 1984, c. 4, s. 27; 1988, c. 21, s. 119; 1989, c. 53, s. 11; 1994, c. 35, s. 32; 2017, c. 18, s. 28.

52.1. The director may reach an agreement on voluntary measures with only one of the parents where the other parent is deceased or is deprived of parental authority.

The director may also decide to reach such an agreement with only one of the parents where the other parent is unable to express his will or cannot be found despite serious efforts to locate him, or where the latter, having not, in fact, assumed responsibility for the care, maintenance and education of the child, abstains from becoming involved owing to indifference. Such a decision may only be taken by the director personally, and must be in writing and give reasons.

If, however, during the application of the agreement, the other parent comes forward, the director must allow that parent to present his views, following which the director may, with the consent of the parents and of the child, if 14 years of age or over, make certain changes to the agreement if it is in the interest of the child.

1994, c. 35, s. 32.

53. An agreement on voluntary measures must be recorded in writing and not exceed one year. The director may reach one or more consecutive agreements with a total term of up to three years.

However, if the last agreement containing a measure entrusting the child under subparagraph *e*, *e.1* or *j* of the first paragraph of section 54 ends during a school year, the agreement may be extended until the end of the school year if a child 14 years of age or over consents to the extension; if the child is under 14 years of age, the last agreement may be extended for the same period with the consent of the parents and the director.

An institution that operates a rehabilitation centre that is designated by the director must admit the child.

1977, c. 20, s. 53; 1984, c. 4, s. 27; 1994, c. 35, s. 32; 2006, c. 34, s. 27; 2017, c. 18, s. 29; 2022, c. 11, s. 34.

53.0.1. If, during the maximum period provided for in section 53, one or more agreements contain a measure entrusting the child to an alternative living environment referred to in subparagraph *e*, *e.1* or *j* of the first paragraph of section 54, the total period for which the child is so entrusted may not exceed, depending on the child's age at the time the first agreement containing such a measure is entered into,

- (a) 12 months if the child is under two years of age;
- (b) 18 months if the child is two to five years of age; or
- (c) 24 months if the child is six years of age or over.

If the security or development of the child is still in danger and it is necessary for him to remain entrusted to such an alternative living environment at the expiry of the period that applies under the first paragraph, the director shall refer the matter to the tribunal.

1994, c. 35, s. 32; 2006, c. 34, s. 28; 2017, c. 18, s. 30.

53.1. The director shall refer the matter to the tribunal where the child, if 14 years of age or over or one of his parents, if party to the agreement, withdraws from an agreement and the child's security or development remains in danger.

The director must also refer the matter to the tribunal where an agreement or a new agreement has expired and the child's security or development remains in danger.

The director must, before reaching an agreement with the child and the child's parents, inform them of the circumstances described in this section in which he is required to refer the matter to the tribunal.

1984, c. 4, s. 27; 1985, c. 23, s. 16; 1988, c. 21, s. 119; 1989, c. 53, s. 11; 1994, c. 35, s. 33.

54. The director may propose as voluntary measures that may be included in an agreement

(a) that the child remain with his family and that the child's parents report periodically to the director on the measures they apply in their own regard or in their child's regard to put an end to the situation in which the security or development of the child is in danger;

(b) that the child and the child's parents undertake to take an active part in the application of the measures designed to put an end to the situation in which the security or development of the child is in danger;

(c) that the parents ensure that the child not come into contact with certain persons or that certain persons not come into contact with the child;

(d) that the child undertake not to come into contact with certain persons;

(e) that the parents entrust the child to other persons;

(e.1) that the parents entrust the child to a kinship foster family chosen by the institution operating the child and youth protection centre;

(f) that a person working for an institution or body provide aid, counselling or assistance to the child and the child's family;

(g) that the parents entrust the child to an institution operating a hospital centre or a local community service centre or to another body so that he may receive the care and assistance he needs;

(h) that the child or the child's parents report in person, at regular intervals, to the director to inform him of the current situation;

(i) that the parents ensure that the child receive health services required by his situation;

(j) that the parents entrust the child for a fixed period to an institution operating a rehabilitation centre or to a foster family, chosen by the institution operating a child and youth protection centre;

(k) that the parents ensure that the child attend a school or another place of learning or participate in a program geared to developing skills and autonomy and that the child undertake to do so;

(l) that the parents undertake to ensure that the child attend a childcare establishment.

For the purposes of this section, the director must, whenever possible, call upon persons or bodies active in the community where the child lives. He must also ensure that the required services are provided to the child or to the child's parents for the implementation of the voluntary measures.

Where the director proposes that the parents entrust the child to an institution operating a rehabilitation centre or a hospital centre, he must specify whether or not foster care is required.

1977, c. 20, s. 54; 1981, c. 2, s. 13; 1984, c. 4, s. 28; 1992, c. 21, s. 225, s. 375; 1994, c. 35, s. 34; 2006, c. 34, s. 29; 2017, c. 18, s. 31.

55. Every institution and every educational body must take all available means to provide the services required for the implementation of the voluntary measures. The same applies to every person and to every other body that agrees to apply such measures.

1977, c. 20, s. 55; 1981, c. 2, s. 14; 1984, c. 4, s. 29; 1992, c. 21, s. 375; 1994, c. 35, s. 34; 2006, c. 34, s. 30.

56. *(Repealed).*

1977, c. 20, s. 56; 1981, c. 2, s. 15; 1984, c. 4, s. 30; 1992, c. 21, s. 226; 1994, c. 35, s. 35.

DIVISION III.1

REVIEW OF THE CHILD'S SITUATION

2017, c. 18, s. 32.

57. On the conditions prescribed by regulation, the director shall review the case of each child whose situation he has taken in charge, except the situation of a child taken in charge under an agreement on a short-term intervention. He shall ensure that every measure is taken to return the child to his parents. If it is not in the interest of the child to be returned to his parents, the director shall see that the child benefits from continuity of care, stable relationships and stable living conditions corresponding to the child's needs and age on a permanent basis.

1977, c. 20, s. 57; 1984, c. 4, s. 31; 2006, c. 34, s. 31; 2017, c. 18, s. 33.

57.1. On the conditions prescribed by regulation, the director shall review the situation of any child placed pursuant to the Act respecting health services and social services (chapter S-4.2) or the Act respecting health services and social services for Cree Native persons (chapter S-5), whose situation he has not taken in charge and who, for one year, has been entrusted to a foster family or to an institution operating a rehabilitation centre without a decision having been made as to the possibility of his being returned to his parents.

The director must, at that time, decide whether the security or development of the child is in danger within the meaning of section 38 or 38.1.

1984, c. 4, s. 32; 1992, c. 21, s. 227; 1994, c. 35, s. 36; 1994, c. 23, s. 23; 2006, c. 34, s. 32.

57.2. The purpose of the review is to determine whether the director shall

(a) maintain the child in the same situation;

(a.1) consider the security or development of the child to be in danger within the meaning of section 38 or 38.1 when new facts have arisen since the decision on the child's security or development being in danger was made;

(b) propose other measures of assistance for the child or his parents;

(c) propose measures of assistance to the parents with a view to returning the child to his parents;

(d) refer to the tribunal, in particular, for an order entrusting the child to an alternative living environment for a period determined by the tribunal;

(e) apply to the tribunal to be appointed tutor, to have a person he recommends appointed as tutor or to replace the tutor of the child;

(f) act with a view to causing the child to be adopted;

(g) put an end to the intervention.

1984, c. 4, s. 32; 1985, c. 23, s. 17; 1988, c. 21, s. 119; 1989, c. 53, s. 11; 1994, c. 35, s. 37; 2006, c. 34, s. 33; 2016, c. 12, s. 43; 2017, c. 18, s. 34; 2022, c. 11, s. 35.

57.2.1. If the director puts an end to an intervention, but is of the opinion that the child or one or both of the child's parents require assistance, the director is subject to the obligations set out in section 45.2.

The director is also subject to those obligations when a child whose security or development is in danger reaches 18 years of age.

2016, c. 12, s. 44.

57.2.2. With a view to a child's transitioning to adulthood, the director who intervenes in respect of the child shall, in the two years before the child reaches 18 years of age, agree with the child on a plan for ensuring that transition.

The director shall also inform the child of the support services offered by persons, institutions or bodies, as well as of the possibility for him to stay in his alternative living environment in accordance with section 64.1, and meet with the child and the staff of the service provider concerned if the child consents to it.

2022, c. 11, s. 36.

57.3. If the director concludes that the child is to remain in the same situation, he shall determine when a new review is to be carried out.

1984, c. 4, s. 32.

58. *(Repealed).*

1977, c. 20, s. 58; 1979, c. 42, s. 13; 1984, c. 4, s. 33.

59. *(Repealed).*

1977, c. 20, s. 59; 1984, c. 4, s. 33.

60. *(Repealed).*

1977, c. 20, s. 60; 1981, c. 2, s. 16; 1984, c. 4, s. 33.

61. *(Repealed).*

1977, c. 20, s. 61; 1984, c. 4, s. 33.

DIVISION IV

CHILD ENTRUSTED TO AN ALTERNATIVE LIVING ENVIRONMENT BY THE TRIBUNAL

1977, c. 20, Div. IV; 2017, c. 18, s. 35.

62. When the tribunal orders that a child be entrusted to an institution operating a rehabilitation centre or hospital centre or to a foster family, it shall require the director to designate the institution or an institution operating a child and youth protection centre that has recourse to foster families, that the child may be entrusted to.

However, when making an order under the third paragraph of section 91.1, the tribunal may designate, by name, the foster family chosen by the institution operating a child and youth protection centre.

Furthermore, when it orders that the child be entrusted to a kinship foster family chosen by the institution operating a child and youth protection centre, the tribunal shall designate the foster family by name.

The director shall see to it that the conditions in which the child is placed are adequate.

Every institution operating a rehabilitation centre or a hospital centre and designated by the director in accordance with this section or subparagraph *b* of the fourth paragraph of section 46 is bound to admit the child contemplated in the order. Such an order may be executed by any peace officer.

The institution operating a child and youth protection centre must send a copy of the child's record to the executive director of the designated institution operating a rehabilitation centre.

1977, c. 20, s. 62; 1988, c. 21, s. 119; 1989, c. 53, s. 11; 1992, c. 21, s. 228; 1994, c. 35, s. 38; 2006, c. 34, s. 34; 2017, c. 18, s. 36.

62.1. When the tribunal orders that the child be entrusted to an alternative living environment, the director may authorize the child to stay, for periods of not more than 15 days, with his father or mother or either of his parents, with a person who is important to the child, in particular his grandparents or other members of the extended family, with a foster family or within a body, provided those stays are in keeping with the intervention plan and respect the interest of the child.

With a view to preparing the child's return to his family or social environment, the director or a person authorized by the director under section 32 may authorize the child to stay with his father or mother or either of his parents, with a person who is important to the child, with a foster family or within a body for extended periods during the last 60 days of the order entrusting the child to an alternative living environment.

With a view to preparing the child for the transition to adulthood, the director or the person so authorized may, in the last six months of such an order ending when the child reaches the age of majority, authorize the child to stay for extended periods in an environment referred to in the second paragraph or in another environment provided for in the intervention plan.

2017, c. 18, s. 36; 2022, c. 22, s. 181; 2022, c. 11, s. 37.

63. If a child is placed in an intensive supervision unit in accordance with section 11.1.1, the executive director of the institution that maintains the unit must, without delay, send the Commission a notice giving the child's name, date of birth and gender, the authorization given by the director for a child under 14 years of age, if applicable, the placement start date and end date and the dates on which the child's situation is to be reassessed. The executive director must also, without delay, send the Commission the tribunal's decision or order if the executive director's decision to place the child in such a unit was referred to the tribunal.

If a child is subject to a measure intended to prevent him from leaving the facilities maintained by the institution, as provided for in section 11.1.2, the same information as that provided for in the first paragraph

must also be sent without delay to the Commission by the executive director, with the necessary modifications.

1977, c. 20, s. 63; 1989, c. 53, s. 12; 2006, c. 34, s. 35; 2017, c. 18, s. 36.

64. If the placement period for a child entrusted to an institution operating a rehabilitation centre by the tribunal ends during a school year, the institution must allow the child 14 years of age or over to stay there until the end of the school year if he consents to it. If the child is under 14 years of age, the placement shall continue with the consent of the parents and the director.

If the placement period for a child entrusted to another alternative living environment by the tribunal ends during a school year, the alternative living environment may allow the child to stay on the same conditions.

1977, c. 20, s. 64; 1981, c. 2, s. 17; 1988, c. 21, s. 119; 1989, c. 53, s. 11; 1992, c. 21, s. 229; 1994, c. 35, s. 39; 2017, c. 18, s. 36.

64.1. An order entrusting a child to an alternative living environment ceases to have effect when the child reaches the age of 18 years.

However, if the child is entrusted to a foster family or an institution operating a rehabilitation centre or a hospital centre, the placement may continue in accordance with the Act respecting health services and social services (chapter S-4.2) or the Act respecting health services and social services for Cree Native persons (chapter S-5) if the person consents to it.

An institution must allow a person who has reached the age of 18 years to stay there if the person consents to it and if his condition does not allow his return to or reinsertion in his home environment. The placement must be continued until the person's admission to another institution or any of its intermediate resources or to a family-type resource where he will receive the services required by his condition is assured.

2017, c. 18, s. 36.

DIVISION V

Repealed, 2022, c. 11, s. 38.

1977, c. 20, Div. V; 2022, c. 11, s. 38.

65. *(Repealed).*

1977, c. 20, s. 65; 1992, c. 21, s. 230; 1994, c. 23, s. 23; 2017, c. 18, s. 37; 2022, c. 11, s. 38.

DIVISION VI

CONTINUITY OF PROTECTIVE MEASURES

66. Where a child whose situation is taken in charge by the director leaves, without authorization, his parents or the institution to which or the person to whom he has been entrusted, they shall so notify the director. The director is bound to notify the parents of a child whose situation he has taken in charge where the child, without authorization, leaves the institution to which or the person to whom he has been entrusted.

1977, c. 20, s. 66; 1984, c. 4, s. 34; 1992, c. 21, s. 375.

67. A director shall not entrust the taking in charge of a child's situation to another director unless the domicile of the child's parents is situated in the territory served by the institution operating the child and youth protection centre for which such other director works. However, the case of a child shall not be entrusted to another director if the child is entrusted to an alternative living environment situated in the

territory served by the institution operating the child and youth protection centre for which the director who has taken charge of the child's situation works.

1977, c. 20, s. 67; 1984, c. 4, s. 35; 1992, c. 21, s. 231; 1994, c. 35, s. 40; 2017, c. 18, s. 38.

68. A copy of the record of the child must then be forwarded to the institution operating the child and youth protection centre for which the director to whom the case of a child is assigned pursuant to section 67 works.

1977, c. 20, s. 68; 1992, c. 21, s. 232; 1994, c. 35, s. 40.

69. To perform his duties adequately, the director must communicate regularly with the child and his family and acquire a first-hand knowledge of the child's living conditions by visiting the premises as often as possible.

1977, c. 20, s. 69; 1984, c. 4, s. 36.

70. Sections 490 to 502 of the Act respecting health services and social services (chapter S-4.2) apply to any institution governed by the said Act which does not adequately fulfil one or another of the tasks, functions and obligations conferred on it by this Act. In addition, section 489 of the Act respecting health services and social services, adapted as required, applies to any institution governed by the said Act to ascertain whether this Act and the regulations thereunder are complied with.

Division VIII of the Act respecting health services and social services for Cree Native persons (chapter S-5) applies to a social service centre which does not adequately fulfil one or another of the tasks, functions and obligations conferred on it by this Act.

1977, c. 20, s. 70; 1992, c. 21, s. 233; 1994, c. 35, s. 41; 1994, c. 23, s. 23.

DIVISION VI.01

EMANCIPATION

2017, c. 18, s. 39.

70.0.1. When the tribunal is seized of an application for emancipation of a child under the third paragraph of article 37 of the Code of Civil Procedure (chapter C-25.01), the director must present to the tribunal an assessment of the child's social situation, together with a recommendation regarding the application for emancipation.

The tribunal may, as applicable, declare the simple or full emancipation of the child.

The rules of the Civil Code apply to such emancipation.

2017, c. 18, s. 39.

DIVISION VI.1

TUTORSHIP

2006, c. 34, s. 36.

70.1. If a child is in one of the situations described in section 207 of the Civil Code and the director has taken charge of the child's situation, the director may apply to the tribunal to be appointed as tutor or to have a person he recommends appointed as tutor if he considers that tutorship is the measure most likely to ensure the interest of the child and the respect of his rights.

Following the application, the tribunal may appoint a tutor if it considers, in the interest of the child, that such a measure is appropriate.

The rules of the Civil Code apply to the tutorship, subject to the provisions of this Act.

2006, c. 34, s. 36; 2017, c. 18, s. 40.

70.2. If the child is entrusted to a person or a foster family and that person or a member of the foster family is appointed tutor to the child in accordance with the second paragraph of section 70.1, the director shall put an end to his intervention in respect of the child.

In that case, the director is subject to the obligations set out in section 45.2.

2006, c. 34, s. 36; 2016, c. 12, s. 45.

70.3. To facilitate tutorship, financial assistance for the child's upkeep may be granted to the tutor referred to in section 70.2, according to the terms and conditions prescribed by regulation.

2006, c. 34, s. 36.

70.4. If the tutor of the child dies, has serious reasons to give up his duties or is no longer able to perform them, or if an interested person requests that the tutor be replaced in the interest of the child, the matter must be referred to the tribunal.

The tribunal shall ask the director for an assessment of the social situation of the child and a recommendation concerning the appointment of a new tutor, if necessary.

2006, c. 34, s. 36.

70.5. A parent who wishes to be reinstated as tutor shall apply to the tribunal.

The tribunal shall ask the director for an assessment of the child's social situation.

2006, c. 34, s. 36.

70.6. When or after the tribunal appoints a tutor, it may prescribe any measure relating to the tutorship that it considers to be in the interest of the child; it may also prescribe, among other things, that personal relations between the child and the child's parents, grandparents or any other person be maintained, and determine how they will be maintained.

2006, c. 34, s. 36.

70.7. The designation of a foster family, or of a member of that family, as a suppletive tutor under article 199.1 of the Civil Code does not put an end to the director's intervention under this Act or change the roles, responsibilities or rights of the foster family or of any of its members.

2022, c. 22, s. 182.

DIVISION VII

ADOPTION

1982, c. 17, s. 63; 1992, c. 57, s. 657; 2004, c. 3, s. 22.

§ 1. —

Heading repealed, 2017, c. 12, s. 58.

2004, c. 3, s. 22; 2017, c. 12, s. 58.

71. Where the director considers that adoption is the measure most likely to ensure the interest of children and the respect of their rights, the director shall take all reasonable means to facilitate their adoption, in particular,

- (1) by examining applications for adoption as the need arises;
- (2) by receiving the general consents required for adoption;
- (3) by taking charge of children entrusted to the director for adoption;
- (4) where necessary, by having children judicially declared eligible for adoption; and

(5) by seeing to the placement of children in accordance with subdivision 1 of Division I of Chapter IV. 0.1 or seeing to obtaining an order of transfer under section 7 of the Act to implement the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (chapter M-35.1.3) with a view to their adoption.

1977, c. 20, s. 71; 1982, c. 17, s. 64; 1988, c. 21, s. 119; 1989, c. 53, s. 11; 1992, c. 57, s. 658; 2004, c. 3, s. 22; 2017, c. 12, s. 59.

71.1. *(Repealed).*

2004, c. 3, s. 22; 2017, c. 12, s. 60.

71.2. *(Repealed).*

2004, c. 3, s. 22; 2017, c. 12, s. 60.

71.3. An institution operating a child and youth protection centre may, in the cases and in accordance with the criteria and conditions prescribed by regulation, grant financial assistance to facilitate the adoption of a child.

2004, c. 3, s. 22.

DIVISION VII.1

Repealed, 2022, c. 11, s. 39.

2017, c. 12, s. 61; 2022, c. 11, s. 39.

71.3.1. *(Repealed).*

2017, c. 12, s. 61; 2022, c. 11, s. 39.

71.3.2. *(Repealed).*

2017, c. 12, s. 61; 2022, c. 11, s. 39.

71.3.3. *(Repealed).*

2017, c. 12, s. 61; 2022, c. 11, s. 39.

CHAPTER IV.0.1

ADOPTION

2017, c. 12, s. 61.

DIVISION I

PROVISIONS REGARDING THE ADOPTION OF A CHILD DOMICILED IN QUÉBEC

2017, c. 12, s. 61.

§ 1. — Director of Youth Protection's special responsibilities as regards the adoption of a child he places

2017, c. 12, s. 61.

71.3.4. Before filing an application for an order of placement, the director must inform the child, the parents or tutor and the adopters

- (1) of the characteristics of adoptions made with or without recognition of a pre-existing bond of filiation;
- (2) of the possibility of providing for exchanges of information or maintaining or developing personal relations in accordance with article 579 of the Civil Code for the term of the placement and after the adoption; and
- (3) of the rules relating to research into family and medical antecedents and to reunions.

In addition, the director must offer support services to the adopter, adoptee and members of the family of origin who wish to provide for exchanges of information or maintain or develop personal relations in accordance with article 579 of the Civil Code before the order of placement is made.

Where only exchanges of information are provided for, the director shall, at the parties' request, facilitate those exchanges until the adoptee reaches full age. However, the director shall cease to act at the request of one of the parties.

2017, c. 12, s. 61; 2022, c. 22, s. 183.

71.3.5. The director must, for every application he files for an order of placement, conduct the psychosocial assessment of the adopters prescribed by article 547.1 of the Civil Code. This assessment must evaluate, among other things, the person's capacity to meet the child's physical, psychological and social needs.

In the case of procedures for an adoption with recognition of a pre-existing bond of filiation, the director must also give an opinion as to whether it is in the interest of the child to recognize such a bond.

2017, c. 12, s. 61.

71.3.6. As soon as an order of placement is granted, the director shall give the adopter, or the child if 14 years of age or over, a summary of the child's family and medical antecedents on request. He shall also give a parent a summary of the adopter's antecedents on request.

If the director is convinced that it will not be possible for a child 14 years of age or over who is eligible for adoption because consent to his adoption has been given or because he has been judicially declared eligible for adoption to be the subject of an application for an order for placement within a reasonable time, the director shall give him a summary of his family and medical antecedents on request.

Subject to article 583 of the Civil Code, every summary must preserve the anonymity of the parents or the adopter, as applicable.

2017, c. 12, s. 61.

71.3.7. The information to be included in a summary of a child's or adopter's family and medical antecedents is determined by regulation of the Minister.

2017, c. 12, s. 61.

§ 2. — Special provisions applicable to the adoption of a child by a person domiciled outside Québec

2017, c. 12, s. 61.

71.3.8. The Minister shall exercise the following responsibilities:

(1) intervene in all cases of adoption of a child domiciled in Québec by a person domiciled outside Québec in order, among other things, to administer the procedure set out in the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption and ensure compliance with the Act to implement the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (chapter M-35.1.3);

(2) retain the files for such adoptions and grant requests for research into family and medical antecedents and requests for reunions, to the extent provided for in the Civil Code and in cooperation with the persons having responsibilities in matters of adoption in Québec and outside Québec; and

(3) give the adopter, or the child if he is 14 years of age or over, a summary of the child's family and medical antecedents on request, and give the parent a summary of the adopter's antecedents on request.

Subject to article 583 of the Civil Code, every summary referred to in subparagraph 3 of the first paragraph must preserve the anonymity of the parents or the adopter, as applicable, and contain the information determined by regulation of the Minister.

2017, c. 12, s. 61.

71.3.9. Psychosocial support services are to be offered to a parent of origin of a child referred to in subparagraph 1 of the first paragraph of section 71.3.8 and to any other person domiciled in Québec who, undertaking research into family and medical antecedents or steps toward a reunion or being the subject of such an undertaking or steps, need such services.

The services are to be offered by the person or institution designated by the Minister for that purpose.

2017, c. 12, s. 61.

71.3.10. As soon as the director proposes to entrust a child domiciled in Québec to a person domiciled outside Québec with a view to the child's adoption, or as soon as the director receives an application from a person domiciled outside Québec for the adoption of a child domiciled in Québec, he must inform the Minister without delay. Likewise, the Minister shall inform the director when he receives such an application.

The director and the Minister shall ensure the orderly conduct of the adoption according to their respective jurisdictions. The Minister shall coordinate their respective actions.

2017, c. 12, s. 61.

71.3.11. The Government may, by regulation, prescribe the terms and conditions of the adoption process in the case of an adoption of a child domiciled in Québec by a person domiciled outside Québec.

2017, c. 12, s. 61.

§ 3. — Rules governing disclosure of adoption-related information and documents

2017, c. 12, s. 61.

71.3.12. Every institution operating a child and youth protection centre is bound to inform a person 14 years of age or over who so requests of whether he was adopted and, if he was, of the rules relating to research into family and medical antecedents and to reunions.

2017, c. 12, s. 61.

71.3.13. Every institution operating a child and youth protection centre is responsible for disclosing to any adoptee or parent of origin who so requests the information they are entitled to obtain under article 583 of the Civil Code. The institution shall also disclose to the adoptee and a brother or sister of origin of the adoptee the information referred to in article 583.10 of that Code if the conditions set out in that article are met.

In addition, such an institution must, if the adoptee or parent of origin sought consents to it, disclose to a physician who has provided a written statement attesting the risk of harm referred to in article 584 of the Civil Code information making it possible to identify the adoptee or parent of origin as well as information making it possible to establish contact with him or his physician.

Any physician who receives the information referred to in the second paragraph must take the safety measures necessary to make sure the information remains confidential. The information may only be disclosed or used for the purposes set out in article 584 of the Civil Code.

2017, c. 12, s. 61.

71.3.14. Psychosocial support services are to be offered to a child 14 years of age or over who undertakes research into family and medical antecedents or steps toward a reunion. They are also to be offered to any other person who, undertaking research into family and medical antecedents or steps toward a reunion or being the subject of such an undertaking or steps, needs such services.

The services are to be offered by an institution operating a child and youth protection centre.

2017, c. 12, s. 61.

71.3.15. Identity disclosure vetoes and contact vetoes under the third paragraph of article 583 of the Civil Code must be registered with an institution operating a child and youth protection centre.

Applications for registration of a veto must be made using the form prescribed by the Minister.

2017, c. 12, s. 61.

71.3.16. For the purposes of section 71.3.12 or 71.3.13, any institution to which those sections apply may require the information or documents needed either to confirm a person's adoptee status or to identify or locate an adoptee or his parents of origin, including

(1) information contained in the judicial records concerning the child's adoption and the adoption judgment in the possession of the courts, despite article 582 of the Civil Code and article 16 of the Code of Civil Procedure (chapter C-25.01);

(2) the adoption notice in the possession of the Ministère de la Santé et des Services sociaux;

(3) information contained in the register of civil status, including, despite article 149 of the Civil Code, information contained in the adoptee's original act of birth in the possession of the registrar of civil status;

(4) the parent of origin's signature contained in the user record in the possession of an institution; and

(5) from documents in the possession of government departments and public bodies and user records in the possession of institutions, the recent or former name and contact information of the person known or presumed by the institution to be the adoptee or his parent or ascendant of origin, and those of the person's spouse, as well as their sex, date and place of birth and, if applicable, date and place of marriage or civil union and death.

2017, c. 12, s. 61.

DIVISION II

PROVISIONS REGARDING THE ADOPTION OF A CHILD DOMICILED OUTSIDE QUÉBEC

2004, c. 3, s. 22; 2017, c. 12, s. 62.

§ 1. — *Adoption-related procedures*

2017, c. 12, s. 63.

71.4. The Minister shall exercise the following responsibilities:

(1) counsel adopters and certified bodies, particularly by informing them of the services available to them;

(2) intervene in all cases of adoption of a child domiciled outside Québec, in accordance with the applicable legislative provisions or when required by the competent authorities of the State of origin;

(2.1) administer the procedure set out in the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption and ensure compliance with the Act to implement the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (chapter M-35.1.3); and

(3) retain the files respecting the adoption of children domiciled outside Québec and grant requests for research into family and medical antecedents and requests for reunions, to the extent provided for in the Civil Code and in cooperation with the persons having responsibilities in matters of adoption in Québec and abroad.

2004, c. 3, s. 22; 2017, c. 12, s. 64.

71.5. When the arrangements for the adoption of children domiciled outside Québec are made by a certified body, it shall receive the applications and transmit a copy to the Minister.

The applications must contain the information specified in the form furnished by the Minister and be accompanied by any documents the Minister may require.

2004, c. 3, s. 22.

71.6. The Government may, by regulation, prescribe the terms and conditions of the adoption process in the case of an adoption of a child domiciled outside Québec by a person domiciled in Québec.

If the Minister provides, in accordance with article 564 of the Civil Code, that adoption arrangements need not be made by a certified body, the Minister may make regulations prescribing the applicable terms and conditions.

2004, c. 3, s. 22; 2017, c. 12, s. 65.

71.7. A psychosocial assessment of persons wishing to adopt a child domiciled outside Québec shall be made by the director of youth protection or by any person acting under section 33. It shall deal in particular with the capacity of the adopters to meet the physical, psychological and social needs of the child.

Where the adoption is to be granted outside Québec in a State that is not a State Party to the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, the assessment may be made by a member of the Ordre des psychologues du Québec or the Ordre des travailleurs sociaux et des thérapeutes conjugaux et familiaux du Québec, chosen by the adopter from a list of names supplied by the order concerned and transmitted to the Minister.

The assessment shall be made, at the expense of the adopter, on the basis of criteria agreed between the two professional orders, the directors of youth protection and the Minister. Additional criteria shall be established for cases involving an older child, a child with special needs or siblings, and the assessment must deal specifically with the adopter's capacity to ensure the integration of the child or children into their new environment. The Minister shall see to the dissemination of the assessment criteria.

2004, c. 3, s. 22; 2009, c. 35, s. 78.

71.8. Where a child domiciled outside Québec is to be adopted, the adopter or the body may not proceed with the adoption process unless the Minister issues a written attestation to the effect that the Minister has no grounds for objection, in accordance with the Québec Immigration Regulation (chapter I-0.2.1, r. 3).

The Minister shall also issue the statement provided for in the Citizenship Act (R.S.C. 1985, c. C-29) regarding the adoption's compliance if, in the Minister's opinion, the adoption granted meets the requirements of Québec law.

2004, c. 3, s. 22; 2017, c. 12, s. 66; I.N. 2023-09-25.

71.8.1. As soon as the child arrives in Québec, the adopter shall undertake the necessary steps to obtain an adoption judgment or the judicial recognition of an adoption decision rendered outside Québec, as prescribed by article 565 of the Civil Code.

If the adoption process or adoption recognition process concerning a minor child is not undertaken and completed within a reasonable time, the director may, at the Minister's request, take, in the adopter's place and stead, all necessary steps to undertake, complete or put an end to the process.

The adopter must send the status reports attesting to the child's development and integration into his new environment, in accordance with the undertakings given and the requirements of each of the States of origin.

2017, c. 12, s. 67.

71.9. Where the adoption of a child domiciled outside Québec is to be granted in Québec, the director shall take charge of the child and see to the child's placement. The director shall intervene in accordance with the terms and conditions determined by regulation.

In urgent or seriously problematic circumstances, the situation of a child who is the subject of an application for recognition of the decision granting an adoption made abroad may be referred to the director

by the court or by any person acting in the child's interest. The director shall take charge of the situation of the child and see that the necessary measures provided by law for the child's protection are carried out.

Where the director takes charge of a child after the child's adoption, whether granted in Québec or outside Québec, he must inform the Minister and, on request, send him all the information necessary for the exercise of his responsibilities.

2004, c. 3, s. 22; I.N. 2016-01-01 (NCCP); 2017, c. 12, s. 68.

71.10. The Minister may, in accordance with the applicable legislative provisions, enter into an agreement with another government or with any of its departments or bodies concerning the adoption of children domiciled outside Québec.

2004, c. 3, s. 22.

71.11. The Minister may, in accordance with the applicable legislative provisions, after consulting the Minister of International Relations and subject to observance of international commitments applicable to Québec, take various supervisory measures relating to the adoption of children domiciled outside Québec, which may go as far as the suspension of adoptions involving a State or a territorial unit if the circumstances so warrant.

2004, c. 3, s. 22.

71.12. *(Repealed).*

2004, c. 3, s. 22; 2017, c. 12, s. 69.

71.13. *(Repealed).*

2004, c. 3, s. 22; 2017, c. 12, s. 69.

71.14. The Minister shall give the adopter, or the child if 14 years of age or over, a summary of the child's family and medical antecedents on request.

The Minister shall also give the parent a summary of the adopter's antecedents on request.

Subject to article 583.12 of the Civil Code, every summary must preserve the anonymity of the parents or the adopter, as applicable.

2004, c. 3, s. 22; 2017, c. 12, s. 70.

71.15. The information to be included in a summary of a child's or adopter's family and medical antecedents is determined by regulation of the Minister.

2004, c. 3, s. 22; 2017, c. 12, s. 71.

§ 2. — Rules governing disclosure of adoption-related information and documents

2017, c. 12, s. 72.

71.15.1. The Minister is bound to inform a person 14 years of age or over who so requests of whether he was adopted and, if he was, of the rules governing disclosure of his identity or that of his parent of origin as well as the rules for establishing contact between them.

2017, c. 12, s. 72.

71.15.2. The Minister is responsible for disclosing to any adoptee and to a parent, brother or sister of origin of the adoptee the information they may obtain under article 583.12 of the Civil Code.

In addition, the Minister must, if the adoptee or parent of origin sought consents to it and if the law of the adoptee's State of origin does not prohibit it, disclose to a physician who has provided a written statement attesting the risk of harm referred to in article 584 of the Civil Code information making it possible to identify the adoptee or parent of origin as well as information making it possible to establish contact with him or his physician.

Any physician who receives the information referred to in the second paragraph must take the safety measures necessary to make sure the information remains confidential. The information may only be disclosed or used for the purposes set out in article 584 of the Civil Code.

2017, c. 12, s. 72.

71.15.3. The persons and the courts having responsibilities under the law in matters of adoption of children domiciled outside Québec may, to the extent necessary for the exercise of their responsibilities, exchange, communicate or obtain confidential information relating to adoption, to family and medical antecedents and to reunions.

2017, c. 12, s. 72.

71.15.4. For the purposes of section 71.15.1 or 71.15.2, the Minister may require the information or documents needed either to confirm a person's adoptee status or to identify or locate an adoptee or his parents of origin, including

(1) information contained in the judicial records concerning the child's adoption and the adoption judgment or recognition judgment in the possession of the courts, despite article 582 of the Civil Code and article 16 of the Code of Civil Procedure (chapter C-25.01);

(2) information contained in the register of civil status, including, despite article 149 of the Civil Code, information contained in the adoptee's original act of birth in the possession of the registrar of civil status; and

(3) from documents in the possession of government departments and public bodies and user records in the possession of institutions, the recent or former name and contact information of the person known or presumed by the Minister to be the adoptee or his parent or ascendant of origin, and those of the person's spouse, as well as their sex, date and place of birth and, if applicable, date and place of marriage or civil union and death.

The documents and information obtained under section 71.15.3 and this section form part of the records concerning the adoption.

2017, c. 12, s. 72.

71.15.5. Psychosocial support services are to be offered to a child 14 years of age or over who undertakes research into family and medical antecedents or steps toward a reunion. They are also to be offered to any other adoptee who undertakes or is the subject of such research or steps and needs such services.

The services are to be offered by the person or institution designated for that purpose by the Minister.

2017, c. 12, s. 72.

§ 3. — *Certification*

2004, c. 3, s. 22.

71.16. The Minister may grant certification to a body whose mission is to defend children's rights, promote their interests and improve their living conditions, so that it may make arrangements on behalf of adopters domiciled in Québec for the adoption of children domiciled outside Québec.

2004, c. 3, s. 22.

71.17. A body applying for certification must be a legal person established under a statute of Québec for non-profit purposes and be directed, managed and administered by persons who, by their ethical standards, training and experience, are qualified to work in the field of intercountry adoption. In addition, the body must demonstrate its ability to fulfil its mission effectively.

The Minister shall, by regulation, determine the qualifications required of a body applying for certification or renewal of certification, and of the persons directing and managing the body, the requirements and terms and conditions the body and those persons must comply with as well as the documents, information and reports they must furnish.

2004, c. 3, s. 22; 2017, c. 12, s. 73.

71.18. The Minister may grant certification if the Minister considers it warranted in the public interest and in the interests of children and after considering such factors as

- (1) the number of certifications necessary to meet the needs in the State concerned; and
- (2) the situation in the State concerned and the guarantees given to the children, their parents and the future adopters.

The Minister may, in addition, impose any condition, restriction or prohibition the Minister considers necessary, and may at any time modify them or impose new conditions, restrictions or prohibitions.

2004, c. 3, s. 22.

71.19. The certification shall indicate the place for which it is issued, its period of validity and any conditions, restrictions or prohibitions attached. The certification may not be transferred.

2004, c. 3, s. 22.

71.20. The certification shall be issued for an initial two-year period. It may be renewed for a three-year period and thereafter for the same period on the conditions determined by this Act and by regulation of the Minister.

The Minister may issue or renew certification for a shorter period where the Minister considers that the circumstances so warrant.

Upon renewal of certification, the Minister may consider the factors mentioned in section 71.18 and modify any condition, restriction or prohibition imposed on the certification holder. The Minister may, at any time, modify the conditions, restrictions or prohibitions or impose new ones.

2004, c. 3, s. 22; 2017, c. 12, s. 74.

71.21. The Minister shall, by regulation, determine the conditions, responsibilities and obligations that a certified body must comply with to maintain certification, and the documents, information and reports it must furnish.

2004, c. 3, s. 22; 2017, c. 12, s. 75.

71.22. A certification holder wishing to terminate activities in the place for which the certification was issued must first notify the Minister in writing and comply with the conditions determined by the Minister.

2004, c. 3, s. 22.

71.23. The Minister may suspend, revoke or refuse to renew certification

(1) if the body no longer meets the requirements for certification or has failed to comply with a condition, restriction or prohibition specified in the certification;

(2) if the Minister considers it warranted in the public interest, in the interests of children or owing to urgent circumstances;

(3) if the Minister considers it necessary, in view of the situation in the State concerned to suspend, revoke or refuse to renew the certification;

(4) if the competent authorities of the place for which the certification is issued no longer authorize adoption or, where applicable, have withdrawn the authorization they had granted to the body;

(5) if the Minister considers that the body is not complying with this Act or the regulations; or

(6) if the body or any of its officers, managers or directors has been convicted of an offence under a regulation made under the second paragraph of section 71.17 or under section 71.21 or of an offence under any of sections 135.1, 135.1.1 and 135.1.2.

The Minister may decide that the revocation or suspension of certification or the refusal to renew certification will only take effect on the expiry of a period determined by the Minister during which the body may continue its activities so as to complete the adoption processes it has begun.

The Minister may also, where the Minister considers it expedient, complete the adoption processes begun by a certified body.

2004, c. 3, s. 22; 2017, c. 12, s. 76.

71.24. The Minister may, instead of suspending, revoking or refusing to renew a body's certification, order the body to take the necessary corrective measures within the time the Minister specifies.

If the body fails to comply with the Minister's order within the specified time, the Minister may suspend, revoke or refuse to renew the certification.

2004, c. 3, s. 22.

71.25. Except in urgent cases, the Minister shall, before refusing to issue certification or before suspending, revoking or refusing to renew certification, notify the body in writing as prescribed by section 5 of the Act respecting administrative justice (chapter J-3) and allow the body at least 10 days to present observations.

2004, c. 3, s. 22.

71.26. Any body whose certification has been suspended or revoked or has not been renewed may contest the decision by filing an application with the court within 30 days after receiving the decision being contested. The decision may be overturned if the grounds of law or fact invoked therein are manifestly erroneous or if there is a serious procedural irregularity.

The application shall be heard and decided by preference and the judgment is final.

The contestation does not suspend execution of the Minister's decision, unless the court decides otherwise.

The judgment of the court must be in writing and give reasons. The clerk shall transmit a copy of the judgment to each of the parties.

2004, c. 3, s. 22; I.N. 2016-01-01 (NCCP); 2020, c. 12, s. 137.

71.27. A certified body must send the Minister the file respecting the adoption of a child domiciled outside Québec

- (1) upon ceasing its activities or if its certification is revoked or not renewed; or
- (2) within two years after the arrival of the child in Québec or withdrawal from the adoption process.

Where the certified body must, more than two years after the arrival of the child, provide the authorities of the child's State of origin with a report on the child's post-adoption situation, it must also, once the record has been given to the Minister, send the Minister without delay all copies of any report it has in its possession.

The Minister may, in the situations and on the conditions the Minister determines, authorize a body to consult a file it has sent to the Minister.

2004, c. 3, s. 22; 2017, c. 12, s. 77.

§ 4. — *Inspections and inquiries*

2004, c. 3, s. 22.

71.28. A person authorized in writing by the Minister to make an inspection may at any reasonable time enter any premises in which the person has grounds to believe that operations or activities for which certification is required by this Act are carried on, in order to ascertain whether this Act and the regulations, and the laws and regulations governing the adoption of a child domiciled outside Québec, are being complied with.

That person may, during an inspection,

- (1) examine and make a copy of any document relating to operations and activities for which certification is required under this Act; and
- (2) require any information relating to the application of this Act or any law governing the adoption of a child domiciled outside Québec, and the production of any document connected therewith.

Any person having custody, possession or control of such documents shall, on request, make them available to the person making the inspection.

A person making an inspection shall, if so required, produce a certificate signed by the Minister attesting to the person's capacity.

2004, c. 3, s. 22; 2017, c. 12, s. 78.

72. No person may, in any manner whatsoever, hinder an inspector performing inspection duties, mislead the inspector through concealment or false statements or refuse to provide a document or information the inspector is entitled to obtain under this Act.

1977, c. 20, s. 72; 1992, c. 57, s. 658; 2004, c. 3, s. 22; 2017, c. 12, s. 79.

72.1. An inspector may not be prosecuted for any act done in good faith in the performance of inspection duties.

1982, c. 17, s. 65; 2004, c. 3, s. 22.

72.1.1. *(Replaced).*

1987, c. 44, s. 10; 1990, c. 29, s. 8; 2004, c. 3, s. 22.

72.2. The Minister may entrust a person with making an inquiry into any matter in connection with the administration or operation of a certified body.

1982, c. 17, s. 65; 1983, c. 50, s. 11; 1985, c. 23, s. 24; 1987, c. 44, s. 11; 2004, c. 3, s. 22.

72.3. The person so designated has, for the purposes of the inquiry, the powers and immunity of a commissioner appointed under the Act respecting public inquiry commissions (chapter C-37), except the power to impose imprisonment.

1982, c. 17, s. 65; 1983, c. 50, s. 12; 1985, c. 23, s. 24; 1986, c. 104, s. 1; 1987, c. 44, s. 12; 1990, c. 29, s. 9; 1994, c. 40, s. 457; 2004, c. 3, s. 22.

72.3.1. *(Replaced).*

1987, c. 44, s. 12; 1990, c. 29, s. 10; 2004, c. 3, s. 22.

72.3.2. *(Replaced).*

1990, c. 29, s. 11; 1994, c. 35, s. 43; 2004, c. 3, s. 22.

72.3.3. *(Replaced).*

1990, c. 29, s. 11; 2004, c. 3, s. 22.

72.3.4. *(Replaced).*

1990, c. 29, s. 11; 2004, c. 3, s. 22.

72.3.5. *(Replaced).*

1990, c. 29, s. 11; 1997, c. 43, s. 454; 2004, c. 3, s. 22.

72.3.6. *(Replaced).*

1990, c. 29, s. 11; 2004, c. 3, s. 22.

72.4. Where an inquiry is so ordered, the Minister may suspend the powers of the certification holder and appoint an administrator to exercise those powers for the duration of the inquiry.

1982, c. 17, s. 65; 1985, c. 23, s. 24; 1994, c. 35, s. 44; 2004, c. 3, s. 22.

CHAPTER IV.1

CONFIDENTIAL INFORMATION

1994, c. 35, s. 45.

72.5. Notwithstanding subparagraph 1 of the first paragraph of section 53 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1), no information collected under this Act in respect of a child or his parents that would allow the identification of the child or parents may be disclosed except with the consent of the child himself if he is 14 years of age or over, where the information relates to him, or with the consent of one of his parents where the information relates to a child under 14 years of age. However, where the information relates solely to the parents, it may not be disclosed except with the consent of the parent to whom it relates.

Such information may, on application, be disclosed by order of the tribunal where the disclosure is intended to ensure the protection of the child to whom the information relates or the protection of another child. Only the director or the Commission, according to their respective powers, may apply to the tribunal for an order for the disclosure of such information.

This section shall not be construed as limiting the power of a court to order of its own motion or on application the disclosure of such information in the exercise of its powers and functions.

1994, c. 35, s. 45; 2017, c. 18, s. 41.

72.6. Despite section 72.5, confidential information may, without the consent of the person to whom it relates or an order of the tribunal, be disclosed to any person, including a foster family, or to any body or institution having responsibilities under this Act and to every court of justice called upon, in accordance with this Act, to make decisions respecting a child, where the disclosure is necessary for the purposes of this Act. The same applies to a person, body or institution called on to cooperate with the director, if the latter considers that the disclosure is in the interest of the child.

Despite section 72.5, confidential information may also be disclosed by the director or the Commission, according to their respective powers, without it being necessary to obtain the consent of the person to whom it relates or an order of the tribunal,

(1) to the Minister of Justice, where the disclosure is necessary for the application of the Act to assist persons who are victims of criminal offences and to facilitate their recovery (chapter P-9.2.1) in respect of an application relating to a child whose situation has been reported to the director under this Act;

(2) to the Director of Criminal and Penal Prosecutions, where the information is required for the prosecution of an offence under this Act;

(2.1) to a police force, where the disclosure is necessary to ensure the safety of a child present on the scene of a police intervention, other than that relating to the application of this Act;

(3) to the Minister of Families or a home educational childcare coordinating office within the meaning of the Educational Childcare Act (chapter S-4.1.1), where the disclosure is necessary for the application of that Act; and

(4) to a school service centre, where the disclosure is necessary to ensure the monitoring of the child's situation within the framework of an agreement described in section 37.8.

Furthermore, despite section 72.5, confidential information may be disclosed by the director, without the consent of the person to whom it relates or an order of the tribunal, to a person who acts as director outside of Québec, if the director has reasonable cause to believe that the security or development of a child is or may be considered to be in danger.

Disclosure of information must take place in a manner that will ensure its confidentiality.

1994, c. 35, s. 45; 2005, c. 34, s. 85; 2006, c. 34, s. 37; 2017, c. 18, s. 42; 2020, c. 1, s. 312; 2021, c. 13, s. 149; 2022, c. 9, s. 97; 2022, c. 11, s. 40.

72.6.0.1. *(Repealed).*

2017, c. 18, s. 43; 2022, c. 11, s. 41.

72.6.1. Despite section 72.5, when the director gives an opinion in accordance with section 131.18, he shall disclose to the competent authority the confidential information on which the opinion is based. Such information may concern the child's situation and living conditions or his tutors, adopters or parents of origin.

The director may also disclose such information to a competent authority at the latter's request.

Disclosure of such information does not require the consent of the person concerned or an order from the tribunal.

2017, c. 12, s. 80; 2022, c. 11, s. 42.

72.7. If there is reasonable cause to believe that the security or development of a child is in danger on any of the grounds set out in subparagraph *b*, *d* or *e* of the second paragraph of section 38, the director or the Commission, according to their respective powers, may, to ensure the protection of the child or of another child, disclose confidential information regarding the situation to the Director of Criminal and Penal Prosecutions or to a police force without it being necessary to obtain the consent of the person to whom it relates or an order of the tribunal. The disclosure must be limited to the information required to facilitate their intervention with regard to the reported situation. If the director or Commission considers it appropriate, he or it may also, for the same purpose, disclose such information to the Minister of Families or an institution or body called on to cooperate with the director, including an institution or body that ensures the coordination of the concerted intervention with regard to the reported situation.

The director or the Commission may also disclose confidential information related to the situation that gave rise to the disclosure to the Director of Criminal and Penal Prosecutions, the Minister of Families or such an institution or body without the consent of the person to whom it relates or an order of the tribunal if such information is necessary for the exercise of their duties and responsibilities. Such a disclosure may be made until the end of the director's intervention in respect of the child.

The provisions of this section apply notwithstanding section 72.5 of this Act and notwithstanding subparagraphs 1, 3 and 4 of the second paragraph of section 59 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1).

For the purposes of this section, a home educational childcare coordinating office within the meaning of the Educational Childcare Act (chapter S-4.1.1) is considered a body.

1994, c. 35, s. 45; 2001, c. 78, s. 11; 2005, c. 34, s. 85; 2006, c. 34, s. 38; 2017, c. 18, s. 44; 2022, c. 9, s. 97; 2022, c. 11, s. 43.

72.8. Notwithstanding section 72.5, the director or the Commission, as the case may be, may, in addition, in order to prevent an act of violence, including a suicide, communicate confidential information without it being necessary to obtain the consent of the person or persons concerned or an order of the tribunal, where there are reasonable grounds to believe that there is a serious risk of death or serious bodily injury threatening a person or an identifiable group of persons and where the nature of the threat generates a sense of urgency.

The information may in that case be communicated to any person exposed to the danger or that person's representative, and to any person who can come to that person's aid.

The director or the Commission, as the case may be, may only communicate such information as is necessary to achieve the purposes for which the information is communicated.

The provisions of this section apply notwithstanding section 59.1 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1).

The executive director of an institution operating a child and youth protection centre must, by a directive, determine the terms and conditions according to which the information may be communicated by the director, the director's personnel and the persons authorized to act under section 33. Those persons are required to comply with the directive.

The president of the Commission exercises the same powers in respect of the members of the personnel of the body, who are required to comply with the directive of the president.

For the purposes of the first paragraph, “serious bodily injury” means any physical or psychological injury that is significantly detrimental to the physical integrity or the health or well-being of a person or an identifiable group of persons.

2001, c. 78, s. 12; 2017, c. 10, s. 31.

72.9. In order to allow only the Commission and the director or a person authorized by the director under section 32 to check if a report has already been made with respect to a child under this Act, the Government may, by regulation, establish a register in which the personal information contained in the child’s record and which the director may disclose under section 72.6 is registered.

The regulation must indicate which personal information will be entered in the register and on what conditions, as well as who will be in charge of the register.

Each director is required to register the information prescribed in the regulation, under the conditions specified therein.

Subject to the time periods prescribed in sections 37.1 to 37.3 and 37.4.3, the information entered in the register must be kept until the child has reached 18 years of age.

2006, c. 34, s. 39; 2017, c. 18, s. 46; 2022, c. 11, s. 44.

72.10. The register referred to in section 72.9 may also contain information on a child forwarded by youth protection services outside Québec.

2006, c. 34, s. 39.

72.11. Despite section 19 of the Act respecting health services and social services (chapter S-4.2), an institution operating a child and youth protection centre may communicate information contained in the record of a minor user who has been placed or provided with foster care to Retraite Québec if that information is necessary to establish a person’s entitlement to the payment of a tax credit granting an allowance to families in accordance with Division II.11.2 of Chapter III.1 of Title III of Book IX of Part I of the Taxation Act (chapter I-3) or a benefit under the Act respecting the Québec Pension Plan (chapter R-9).

An institution may also communicate to the Canada Revenue Agency information contained in the record of a user who is a minor provided with foster care or placed, or who is a minor entrusted to a tutor under this Act, if communicating that information is necessary to allow the institution to receive the amounts paid under the Children’s Special Allowances Act (S.C. 1992, c. 48, Schedule).

2006, c. 34, s. 39; 2007, c. 12, s. 308; 2015, c. 20, s. 61; 2017, c. 18, s. 47; 2019, c. 14, s. 667.

CHAPTER V

JUDICIAL INTERVENTION

DIVISION I

INTERVENTION OF THE TRIBUNAL

1977, c. 20, DIV. I; 2017, c. 18, s. 48.

§ 1. — *Hearing*

I.N. 2016-01-01 (NCCP).

73. The tribunal shall hear the case of a child in the district where the domicile or residence of the child is situated, unless, due to the circumstances, the tribunal decides that it is advisable to hear it in another district.

When the child has no known domicile or residence in Québec, applications are brought before the tribunal where the director who received the report exercises his responsibilities.

1977, c. 20, s. 73; 1984, c. 4, s. 37; 1988, c. 21, s. 119; 1989, c. 53, s. 11; 2006, c. 34, s. 74.

73.1. After taking into consideration the opinion of the parties, the tribunal may hear the cases of several children of a same parent at the same time, if in doing so there is no risk of prejudice to any of them. However, the tribunal shall give separate orders for each child in accordance with section 91.

2006, c. 34, s. 40.

74. *(Repealed).*

1977, c. 20, s. 74; 1979, c. 42, s. 14; 1981, c. 2, s. 18; 1984, c. 4, s. 38; 1988, c. 21, s. 119; 1989, c. 53, s. 11; 2006, c. 34, s. 41; 2017, c. 18, s. 49.

74.0.1. For the purpose of hearing and ruling on an application made to it, the tribunal may, taking into account the technological environment in place to support the business of the tribunals, use any appropriate technological means available to both the parties and the tribunal.

However, in all proceedings, witnesses are examined at the hearing. The tribunal may, nevertheless, after consulting the parties, allow a witness to be examined at a distance if the tribunal is of the opinion, after taking into account such factors as the issues raised in the application, the nature and length of the testimony, the witness's personal situation and ability to travel, and the costs that his presence would entail, that it is expedient to do so.

The technological means used to examine a witness at a distance must allow the witness to be identified, heard and seen live. If this is not possible, the tribunal may, after consulting the parties, allow a witness to be examined at a distance if the tribunal is of the opinion that it is necessary to do so due to the urgency of the situation or for exceptional reasons. In such a case, the technological means used must allow the witness to be identified and heard live.

This section also applies to clerks and justices of the peace in the exercise of their jurisdiction.

2006, c. 34, s. 42; 2017, c. 18, s. 50.

74.1. The director or the Commission may refer to the tribunal the case of a child whose security or development is considered to be in danger.

The Commission may also refer to the tribunal any situation where it has reason to believe that the rights of the child have been wronged by persons, bodies or institutions.

1981, c. 2, s. 18; 1984, c. 4, s. 38; 1988, c. 21, s. 119; 1989, c. 53, s. 11, s. 12; 1992, c. 21, s. 375.

74.2. A child or his parents may apply to the tribunal where they disagree with

- (a) the decision of the director as to whether or not the security or development of the child is in danger;
- (b) the decision of the director as to the directing of the child;
- (c) the decision whether or not to prolong the period of a voluntary measure entrusting the child to an alternative living environment;
- (d) the decision of the director on review;

(e) the decision of the executive director, in accordance with section 9, 11.1.1 or 11.1.2.

1981, c. 2, s. 18; 1984, c. 4, s. 38; 1988, c. 21, s. 119; 1989, c. 53, s. 11; 1992, c. 21, s. 234; 1994, c. 35, s. 46; 2006, c. 34, s. 43; 2017, c. 18, s. 51.

75. The tribunal takes cognizance by the filing of an application containing, if possible, the names of the child and of his parents, their address, their ages and a summary of the facts justifying the intervention of the tribunal.

Every officer of the tribunal and every person working for an institution shall, when so required, assist a person who wishes to file an application under this chapter.

1977, c. 20, s. 75; 1984, c. 4, s. 38; 1988, c. 21, s. 119; 1989, c. 53, s. 11; 1992, c. 21, s. 235, s. 375; 2006, c. 34, s. 44; I.N. 2016-01-01 (NCCP).

76. Every originating application must be accompanied by a notice stating the date, time and place it will be presented and must, not less than 10 days or more than 60 days before the hearing,

(1) be served personally by a bailiff on the parents, the child if he is 14 years of age or over, and any person who has been granted the status of party by the tribunal, or be notified to those persons by the director personally or by registered mail provided receipt of the document is attested to by the addressee; and

(2) be notified in accordance with the rules of the Code of Civil Procedure (chapter C-25.01) to the advocates of the parties mentioned in subparagraph 1, the director, the Commission if the application raises an encroachment of rights, or the Public Curator in tutorship or emancipation matters.

An application made under the third or fourth paragraph of section 81 must, within the same time and on the same conditions, be notified only to the director. It must also be filed at the office of the tribunal at least 10 days before the hearing. On receiving the application, the clerk shall send by registered mail to the parents and to the child if he is 14 years of age or over, at their last address entered in the record, a notice informing them of the filing of the application.

Any other written proceeding, document or notice must be notified using a method provided for in the Code of Civil Procedure that protects its confidentiality.

The tribunal may

(1) authorize a different method of service or notification if required in the circumstances;

(2) extend or reduce the service or notification time limit for exceptional reasons or in urgent cases; and

(3) dispense with service or notification for exceptional reasons, in urgent cases or if all the parties are present before the tribunal and waive it.

Applications addressed to the tribunal under the fourth paragraph must be presented in the district established under section 73.

The clerk may exercise the powers conferred on the tribunal in subparagraphs 1 and 2 of the fourth paragraph.

1977, c. 20, s. 76; 1988, c. 21, s. 119; 1989, c. 53, s. 5, s. 11; 1989, c. 53, s. 12; 1994, c. 35, s. 67; 2006, c. 34, s. 45; I.N. 2016-01-01 (NCCP); 2017, c. 18, s. 52; 2022, c. 11, s. 45.

76.0.1. To ensure the orderly progress of a proceeding, the tribunal may, in accordance with the directives issued by the chief judge, on his own initiative or on request, given the nature, character or complexity of the case, order that it be examined as soon as the application is filed to determine whether the tribunal considers it

necessary to establish a case protocol in cooperation with the parties or hold a management conference. The tribunal may also determine with the parties the time limits and terms applicable to them.

2017, c. 18, s. 53.

76.0.2. The parties are required to cooperate to establish the case protocol which, if considered necessary, sets out their agreements and undertakings and the issues in dispute, describes the steps to be taken to ensure the orderly progress of the proceeding, includes an assessment of the time completing these steps could require and sets the deadlines to be met.

The case protocol covers such aspects as

- (1) preliminary exceptions and provisional measures;
- (2) the advisability of holding a settlement conference or discussions with a view to submitting a draft agreement to the tribunal under section 76.3;
- (3) the advisability of seeking one or more expert opinions and the nature of the opinion or opinions to be sought;
- (4) the procedure and time limit for pre-hearing discovery and disclosure; and
- (5) foreseeable incidental applications.

The tribunal may, in cooperation with the parties, amend the protocol to, among other reasons, include items that could not be determined.

The protocol is binding on the parties, who are each required to comply with it.

2017, c. 18, s. 53.

76.0.3. When convening a case management conference, the tribunal acquaints itself with the issues of fact or law in dispute, discusses the case protocol, if applicable, with the parties and takes the appropriate case management measures. If it considers it useful, the tribunal may require undertakings from the parties as to the further conduct of the proceeding, or subject the proceeding to certain conditions.

The tribunal may also, even if a party is absent, hear the party that is present if the latter is ready to proceed on case management measures.

2017, c. 18, s. 53.

76.0.4. At the case management conference, the tribunal may decide to hold a hearing of the parties, on the preliminary exceptions, or to hear the parties on the grounds of their defence, which are recorded in the minutes of the hearing. The tribunal may try the case immediately if the parties are ready to proceed, or postpone the hearing to another date set by the tribunal. It may also examine a draft agreement submitted to it under section 76.3.

Preliminary exceptions are presented and contested orally, but the tribunal may authorize the parties to submit the relevant evidence.

2017, c. 18, s. 53.

76.0.5. For case management purposes, at any stage of a proceeding, the tribunal may decide, on its own initiative or on request, to

- (1) take measures to simplify or expedite the proceeding and shorten the hearing by ruling, among other things, on the advisability of ordering the consolidation or separation of proceedings, of better defining the

issues in dispute, of amending the pleadings, of limiting the length of the hearing, of admitting facts or documents, of authorizing affidavits in lieu of testimony or of determining the procedure and time limit for the disclosure of exhibits and other evidence between the parties, or by convening the parties to a case management conference or a settlement conference, or encouraging them to hold discussions with a view to submitting a draft agreement to the tribunal under section 76.3;

(2) assess the purpose and usefulness of seeking expert opinion, determine the mechanics of that process and set a time limit for submission of the expert report; and

(3) rule on any special requests made by the parties, modify the case protocol or order provisional measures as it considers appropriate.

2017, c. 18, s. 53.

76.0.6. The tribunal's case management decisions are recorded in the minutes of the hearing and are considered to be part of the case protocol. Unless revised by the tribunal, they govern the conduct of the proceeding together with the case protocol.

2017, c. 18, s. 53.

76.1. The tribunal may, if it considers it necessary for the security or development of the child, give any order for the execution, while proceedings are in progress, of one or several of the measures applicable under section 91.

However, it may order the execution of the measure provided for in subparagraph *j* of the first paragraph of section 91 only if it concludes that the child's remaining with or returning to his parents or to his residence is likely to cause him serious harm. Such a measure may not exceed 60 days, unless the parties consent to a longer period or there are serious reasons warranting one.

The tribunal shall, without delay, inform the parents of the child who is the subject of a measure taken under this section.

The tribunal may review its decision at any time.

1981, c. 2, s. 19; 1984, c. 4, s. 39; 1988, c. 21, s. 119; 1989, c. 53, s. 11; 2017, c. 18, s. 54.

76.2. Every application for an order under section 76.1 must be notified to the parties or their advocate, as the case may be, at least one day before it is to be presented.

In addition to stating the date, time and place the application will be presented, the notice states the facts justifying the intervention of the tribunal and any conclusions sought.

The notice is submitted in person or by way of any appropriate technological means that ensures its confidentiality.

The tribunal may shorten the time prescribed in the first paragraph where the application seeks to change the living environment of a child in accordance with subparagraphs *e*, *e.1*, *g* or *j* of the first paragraph of section 91.

2006, c. 34, s. 46; I.N. 2016-01-01 (NCCP); 2017, c. 18, s. 55; 2022, c. 11, s. 46.

76.3. At any time, including after a settlement conference, the parties to the proceedings may submit a draft agreement or a settlement to the tribunal or to the judge who presided over the settlement conference.

The draft agreement or settlement submitted under the first paragraph may have been reached with only one of the parents where the other parent is unable to express their will, cannot be found despite serious

efforts to locate them, or where they, having not, in fact, assumed responsibility for the care, maintenance and education of the child, abstain from becoming involved owing to indifference.

The tribunal may order the parties to put any draft agreement or settlement in writing and to file it.

2006, c. 34, s. 46; I.N. 2016-01-01 (NCCP); 2017, c. 18, s. 56; 2022, c. 11, s. 47.

76.4. After verifying that the measures proposed in the draft agreement or settlement respect the rights and interest of the child, the tribunal or the judge who presided over the settlement conference may order the implementation of those measures or any other measure it or he considers appropriate.

2006, c. 34, s. 46; 2017, c. 18, s. 57; 2022, c. 11, s. 48.

76.5. *(Repealed).*

2006, c. 34, s. 46; I.N. 2016-01-01 (NCCP); 2017, c. 18, s. 58.

77. The tribunal tries the matter by, among other things, hearing all the evidence on which its decision or order is to be based.

Testimony shall be taken by stenography or recorded in any other manner authorized by the Government.

The expenses incurred under the second paragraph shall be at the expense of the Minister of Justice.

The stenographer's notes shall be transcribed only when the tribunal so orders or in case of appeal; the cost of such transcription shall be at the expense of the Minister of the Justice.

To assist in the cross-examination of a witness, the tribunal may retain the services of an interpreter, whose remuneration shall be paid by the Minister of Justice.

1977, c. 20, s. 77; 1988, c. 21, s. 119; 1989, c. 53, s. 11; 1994, c. 35, s. 47; 2006, c. 34, s. 47; 2017, c. 18, s. 59.

78. The tribunal must inform the parents and the child of their right to be represented by an advocate.

In addition, it must see to it that an advocate is specifically assigned to represent and counsel only the child or, if there is more than one child concerned by a proceeding, the children.

The parties are required to cooperate so that the advocate of a child may have access to his client, in compliance with the advocate's right to professional secrecy.

The tribunal may order any measure aimed at ensuring compliance with this section.

1977, c. 20, s. 78; 1988, c. 21, s. 119; 1989, c. 53, s. 11; 2022, c. 11, s. 49.

79. *(Repealed).*

1977, c. 20, s. 79; 1981, c. 2, s. 20; 1984, c. 4, s. 40; 1988, c. 21, s. 119; 1989, c. 53, s. 11; 1992, c. 21, s. 236; 1994, c. 35, s. 48; 2017, c. 18, s. 60.

80. *(Repealed).*

1977, c. 20, s. 80; 1988, c. 21, s. 119; 1989, c. 53, s. 11; 2006, c. 34, s. 48; 2022, c. 11, s. 50.

81. The child, the child's parents and the director are parties to the hearing.

The Commission may, *ex officio*, intervene at the hearing as if it were a party to it. The same applies to the Public Curator in tutorship and emancipation matters.

Any person who wishes to intervene at the hearing in the interest of the child may, on an application, testify before the tribunal and make representations if the person has information likely to enlighten the tribunal, and may, for that purpose, be assisted by an advocate. The tribunal may, for exceptional reasons, in urgent cases or if the parties present at the hearing consent to it, authorize the person to make the application orally.

For the requirements of the hearing, the tribunal may grant a person the status of party to the hearing if the tribunal considers it advisable to do so in the interest of the child. The status of party remains valid until withdrawn by a decision or order of the tribunal.

The director must, on request, inform a person who wishes to present an application under the third or fourth paragraph of the date, time and place of the hearing.

1977, c. 20, s. 81; 1984, c. 4, s. 41; 1988, c. 21, s. 119; 1989, c. 53, s. 11, s. 12; 2005, c. 34, s. 62; 2006, c. 34, s. 49; 2009, c. 45, s. 9; I.N. 2016-01-01 (NCCP); 2017, c. 18, s. 61.

81.1. (*Repealed*).

2017, c. 18, s. 62; 2022, c. 11, s. 50.

82. Notwithstanding section 23 of the Charter of human rights and freedoms (chapter C-12), the hearings are held *in camera*.

Nevertheless, the tribunal must at all times admit to its hearings a member or an employee of the Commission and any journalist who requests admission, unless it believes the journalist's presence would cause prejudice to the child.

The tribunal may exceptionally and for a serious reason admit to its hearings any other person whose presence is compatible with respect for the interests and rights of the child. It may also, on request, admit to its hearings any other person for the purposes of study, teaching or research.

The parties, their advocates and all other persons admitted to the hearings must conduct themselves in a respectful and restrained manner. Every person, even if they are not present in person at a hearing, must comply with the rules set out in this section and obey the orders of the tribunal, under pain of contempt of tribunal.

No person admitted to a hearing may make a sound recording of the proceedings or of the decision, unless authorized by the tribunal subject to the conditions it determines. In no case may images be recorded or sound or image recordings be broadcast.

1977, c. 20, s. 82; 1988, c. 21, s. 119; 1989, c. 53, s. 11, s. 12; 2006, c. 34, s. 50; 2014, c. 1, s. 825; 2020, c. 29, s. 64.

83. A person or foster family is admitted to the hearing of any application concerning the child entrusted to the person or foster family.

The person or foster family may testify and make representations before the tribunal at the hearing and may, for those purposes, be assisted by an advocate.

The person or foster family may not otherwise participate in the hearing, unless it has obtained the tribunal's authorization to do so.

Except in the case of an application under section 47, the director must, as soon as possible, inform the person or foster family of the date, time and place of the hearing of any application concerning the child

entrusted to the person or foster family, of the subject of such an application and of the person's or foster family's right to be admitted to the hearing and participate in it to the extent provided for in this section.

1977, c. 20, s. 83; 1988, c. 21, s. 119; 1989, c. 53, s. 11; 1994, c. 35, s. 49; 2006, c. 34, s. 51; 2017, c. 18, s. 63.

84. The tribunal may exclude the child or any other person from the hearing when the information produced could, in the opinion of the tribunal, cause prejudice to the child, if it were produced in the presence of the child or such other person. The advocate of the child must however remain at the hearing to represent him. If the child has no advocate, the tribunal shall appoint one to him *ex officio*.

The advocate of any other party excluded from the hearing may remain present to represent him.

1977, c. 20, s. 84; 1984, c. 4, s. 42; 1988, c. 21, s. 119; 1989, c. 53, s. 6, s. 11; 2006, c. 34, s. 52; 2017, c. 18, s. 64.

84.1. If, after the filing of the application, a document relating to the proceedings is found to be in the possession of a third party, the third party may be ordered, upon summons authorized by the tribunal, to communicate it to the other parties, unless he shows cause why he should not do so.

The tribunal may, at any time after the filing of the application, order a party or a third person to exhibit, preserve or submit to an expert's appraisal any real evidence relating to the proceedings he has in his possession on the conditions, at the time and place and in the manner it considers expedient.

2006, c. 34, s. 53; I.N. 2016-01-01 (NCCP).

84.2. A party wishing to produce an analysis, report, study or expert opinion before the tribunal must file the document in the record and give a copy to the advocate of each of the parties, and to each party that is not represented, at least five days before the hearing, unless the tribunal grants an exemption from this obligation.

The first paragraph applies to the filing of a psychosocial report referred to in section 86, except as regards the time period which is to be 10 days.

An analysis, report, study or expert opinion produced under this section must describe the elements that are necessary or relevant to assist the tribunal in assessing the child's situation, in determining whether or not the security or development of the child is in danger or remains in danger or in making any decision under this Act.

The filing in the record of the whole or simply of abstracts of the out of court testimony of an expert witness may stand in lieu of a written report.

2006, c. 34, s. 53; I.N. 2016-01-01 (NCCP); 2022, c. 11, s. 51.

85. Unless the context indicates otherwise and subject to the special provisions of this Act, Books I and II of the Code of Civil Procedure (chapter C-25.01), except the second paragraph of article 10, the second, third and fourth paragraphs of article 31, articles 48, 54, 72, 142, 145 to 147, 155, 156, 166, 172 to 178, 180 to 183, 217 to 230, 243 and 246 to 252 and the third paragraph of article 279, apply, with the necessary modifications. For the purposes of article 74, the time limit is five days.

Articles 321, 325 to 327, 334, the second paragraph of article 336 and articles 337, 338, 349, 350 and 489 to 508 of that Code also apply in the same manner.

1977, c. 20, s. 85; 1984, c. 4, s. 43; 1988, c. 21, s. 119; 1989, c. 53, s. 7, s. 11; 1994, c. 35, s. 50; 2006, c. 34, s. 54; 2009, c. 45, s. 10; 2014, c. 1, s. 826; 2017, c. 18, s. 65.

85.1. A child under 14 years of age is presumed to be competent to testify. The child may not be sworn in or make a solemn affirmation, but, before receiving the child's testimony, the tribunal shall have the child promise to tell the truth. The testimony has the same effect as if the child had taken the oath. Such testimony does not require corroboration.

If a party expresses a doubt as to the child's competence to testify, the party must convince the tribunal that the child is not able to understand and answer the questions. The tribunal itself shall question the child to determine whether or not the child is competent to testify.

A child declared not competent to testify may not testify.

1989, c. 53, s. 8; 1994, c. 35, s. 51; 2006, c. 34, s. 55.

85.2. Exceptionally, the tribunal may dispense a child from testifying if it believes that testifying could be prejudicial to the mental or emotional development of the child.

1989, c. 53, s. 8; 1994, c. 35, s. 52; 2006, c. 34, s. 55.

85.3. *(Replaced).*

1989, c. 53, s. 8; 2006, c. 34, s. 55.

85.4. The tribunal may, by way of exception and if it believes that it is warranted in the circumstances, hear a child outside the presence of any person who is a party to the proceedings after having so notified that person.

However, the advocate of any person excluded from the court-room may remain in the court-room to represent his client.

Any person in the absence of whom testimony is given may take cognizance of it. The tribunal may, however, make any order which appears necessary to ensure that the confidential nature of the information the person may take cognizance of is respected.

1989, c. 53, s. 8.

85.4.1. The tribunal may, on application or on its own initiative, prevent an unrepresented party from examining or cross-examining a child and order that the child be examined or cross-examined by an advocate.

2022, c. 22, s. 189.

85.5. The declaration made by a child who is not competent to testify at the proceedings or who has been dispensed therefrom by the tribunal is admissible as evidence of the existence of the facts stated therein.

However, the tribunal shall not rule that the security or development of the child is endangered on the strength of the declaration unless the reliability of the declaration is sufficiently guaranteed.

1989, c. 53, s. 8; 1994, c. 35, s. 53; 2006, c. 34, s. 56.

85.6. The declaration referred to in section 85.5 may be proved by the testimony of the persons having witnessed it.

Where the declaration was recorded on magnetic tape or by any other reliable means, it may also be proved by that means provided the authenticity of the recording is established separately.

1989, c. 53, s. 8.

86. Before rendering a decision on the measures applicable, the tribunal shall take cognizance of the director's psychosocial report relating to the child's situation and the recommendations made.

1977, c. 20, s. 86; 1981, c. 2, s. 21; 1984, c. 4, s. 44; 1988, c. 21, s. 119; 1989, c. 53, s. 11; 1992, c. 21, s. 237; 1994, c. 35, s. 54; 2006, c. 34, s. 57; 2022, c. 11, s. 52.

87. The director may, at his discretion, or must, if the tribunal so requires, attach to the psychosocial report referred to in section 86 a psychological or medical assessment of the child or a member of his family or any other relevant expert evaluation.

The parents of the child or the child himself, if he is 14 years of age or over, may refuse to undergo any assessment or expert evaluation. The parents of a child under 14 years of age may refuse for the child. Any refusal shall be recorded in a notice sent to the tribunal.

However, neither the parents nor the child shall refuse to undergo an assessment or expert evaluation ordered by the tribunal and relating to a situation involving psychological ill-treatment, exposure to domestic violence, sexual abuse or physical abuse or the risk of such abuse within the meaning of subparagraphs *c*, *c.1*, *d* or *e* of the second paragraph of section 38.

A child 14 years of age or over may give his consent alone to undergo an assessment or expert evaluation.

The cost of the assessment or expert evaluation shall be at the expense of the institution operating the child and youth protection centre.

Where the assessment or expert evaluation is disputed, the tribunal may require the director to produce a new one and determine who is to pay the related costs.

1977, c. 20, s. 87; 1984, c. 4, s. 45; 1988, c. 21, s. 119; 1989, c. 53, s. 11; 1994, c. 35, s. 67; 2006, c. 34, s. 58, s. 75; 2022, c. 11, s. 53.

88. The contents of a psychosocial report referred to in section 86 and, if applicable, of any assessment or expert opinion referred to in section 87 attached to it must be sent to the parties, who may dispute the data or the conclusions contained in such report, assessment or expert opinion.

However, where the director is of the opinion that the contents should not be communicated to the child, the tribunal may, by exception, prohibit the transmission of it.

The tribunal must ensure that the advocate representing the child is given the opportunity to examine the psychosocial report and, if applicable, any attached assessment or expert opinion and to ultimately dispute them.

1977, c. 20, s. 88; 1988, c. 21, s. 119; 1989, c. 53, s. 11; 2006, c. 34, s. 59; 2022, c. 11, s. 54.

89. The tribunal must explain to the parties, especially the child, the nature of the measures envisaged and the reasons justifying them. It must endeavour to obtain the assent of the child and of the other parties to the measures.

1977, c. 20, s. 89; 2006, c. 34, s. 60.

89.1. The defence is to be oral.

2017, c. 18, s. 66.

§ 2. — *Decision*

90. Every decision or order of the tribunal must give reasons.

The decision or order must be recorded in writing within 60 days after it is rendered at the hearing or after the matter is taken under advisement. If that time limit is not complied with, the Chief Judge may, on his own initiative or on a party's application, extend it or remove the judge from the case.

However, in the case of a decision or order concerning the extension of immediate protective measures or concerning provisional measures, the entry of the decision or order and main reasons for it in the minutes of the hearing, attested by the person who rendered the decision or order, is sufficient.

1977, c. 20, s. 90; 1988, c. 21, s. 119; 1989, c. 53, s. 11; 2006, c. 34, s. 61; 2017, c. 18, s. 67.

91. Where the tribunal concludes that the security or development of the child is in danger, it may, for the period it determines, order the implementation of one or more of the following measures:

(a) that the child remain with his family or be entrusted to one of his parents and that the child's parents report periodically to the director on the measures they apply in their own regard or in their child's regard to put an end to the situation in which the security or development of the child is in danger;

(b) that the child and the child's parents take an active part in the application of any of the measures ordered by the tribunal;

(c) that certain persons designated by the tribunal not come into contact with the child;

(d) that the child not come into contact with certain persons designated by the tribunal;

(e) that the child be entrusted to other persons;

(e.1) that the child be entrusted to a kinship foster family chosen by the institution operating a child and youth protection centre;

(f) that a person working for an institution or body provide aid, counselling or assistance to the child and the child's family;

(g) that the child be entrusted to an institution operating a hospital centre or local community service centre or to another body so that he may receive the care and assistance he needs;

(h) that the child or the child's parents report in person, at regular intervals, to the director to inform him of the current situation;

(i) that the child receive specific health care and health services;

(j) that the child be entrusted to an institution operating a rehabilitation centre or to a foster family, chosen by the institution operating a child and youth protection centre;

(k) that the child attend a school or another place of learning or participates in a program geared to developing skills and autonomy;

(l) that the child attend a childcare establishment;

(l.1) that specific information not be disclosed to one or both of the parents or any other person designated by the tribunal;

(m) that a person ensure that the child and his parents comply with the conditions imposed on them and that that person periodically report to the director;

(n) that the exercise of certain attributes of parental authority be withdrawn from the parents and granted to the director or any other person designated by the tribunal;

(o) that a period over which the child will be gradually returned to his family or social environment be determined.

The tribunal may make any recommendation it considers to be in the interest of the child.

The tribunal may include several measures in the same order, provided those measures are consistent with each other and in the interest of the child. It may thus authorize that personal relations between the child and the child's parents, grandparents or another person be maintained, in the manner determined by the tribunal; it may also provide for more than one environment to which the child may be entrusted and state how long the child is to stay in each of those environments.

Where the tribunal concludes that the rights of a child in difficulty have been wronged by persons, bodies or institutions, it may order the situation to be corrected.

1977, c. 20, s. 91; 1981, c. 2, s. 22; 1984, c. 4, s. 46; 1988, c. 21, s. 119; 1989, c. 53, s. 11; 1992, c. 21, s. 375; 1994, c. 35, s. 55; 2006, c. 34, s. 62; 2016, c. 12, s. 46; 2017, c. 18, s. 68.

91.1. If the tribunal orders that a child be entrusted to an alternative living environment under subparagraph *e*, *e.1* or *j* of the first paragraph of section 91, the total period for which the child is so entrusted may not exceed, depending on the child's age at the time the order is made,

- (a) 12 months if the child is under two years of age;
- (b) 18 months if the child is two to five years of age; or
- (c) 24 months if the child is six years of age or over.

To determine the length of that period, the tribunal must take into account the duration of any measure, taken within the framework of this Act, that entrusts the child to an alternative living environment and that is related to the same situation. It may also take into account the duration of any previous period during which the child was entrusted to an alternative living environment within the framework of this Act, but that is not related to the same situation. A situation means the period from the accepted report to the end of the director's intervention.

If the security or development of the child is still in danger at the expiry of the periods specified in the first paragraph, the tribunal must make an order that ensures continuity of care, stable relationships and stable living conditions corresponding to the child's needs and age on a permanent basis.

However, if the interest of the child demands it, the tribunal may disregard the periods specified in the first paragraph if it is expected that the child will be returned to his family environment in the short term or if there are serious reasons for doing so. The fact that services mentioned in an agreement or in an order of the tribunal have not been provided constitutes, among others, a serious reason.

At any time during a period specified in the first paragraph, if the security or development of the child is still in danger, the tribunal may make an order that ensures continuity of care, stable relationships and stable living conditions corresponding to the child's needs and age on a permanent basis.

2006, c. 34, s. 63; 2017, c. 18, s. 69; 2022, c. 11, s. 55.

91.2. The periods specified in the first paragraph of section 91.1 do not apply if the tribunal orders that the child be entrusted to an alternative living environment under subparagraph *e*, *e.1* or *j* of the first paragraph of section 91 and an order aimed at ensuring continuity of care, stable relationships and stable living conditions corresponding to the child's needs and age on a permanent basis has already been made.

2006, c. 34, s. 63; 2017, c. 18, s. 70.

92. Where the tribunal orders the carrying out of a measure with regard to a child, it shall entrust the situation of the child to the director, who shall then see that the measure is carried out.

Every institution and every educational body is required to take all available means to provide the services required to carry out the measures ordered. The same applies to every person and to every other body that agrees to apply such measures.

1977, c. 20, s. 92; 1984, c. 4, s. 46; 1988, c. 21, s. 119; 1989, c. 53, s. 11; 2006, c. 34, s. 64.

92.1. At the expiry of the order of the tribunal, the director or a person authorized by the director under section 32 may, with the consent of the parties and over a maximum period of one year, continue the protective measures or amend them with a view to the child's gradual return to his family or social environment.

2006, c. 34, s. 65.

93. Every decision or order of the tribunal is enforceable as soon as it is rendered and any person contemplated in it must comply therewith without delay.

1977, c. 20, s. 93; 1988, c. 21, s. 119; 1989, c. 53, s. 11; 2017, c. 18, s. 90.

94. A copy of a decision or an order of the tribunal relating to a matter concerning a child shall be sent forthwith to the director, the parents, to the child himself, when he is 14 years of age or over, and to the advocates of the parties.

The Commission may obtain a copy, free of charge, of a decision or order of the tribunal in respect of a child.

The original shall be filed in the record of the tribunal and shall be kept by the clerk.

1977, c. 20, s. 94; 1988, c. 21, s. 119; 1989, c. 53, s. 11, s. 12; 1994, c. 35, s. 67; 2006, c. 34, s. 66.

94.1. A copy of a decision or an order of the tribunal relating to a matter concerning a child must also be sent without delay to the Société québécoise d'information juridique, which ensures, in the exercise of the duties conferred on it by its constituting Act, that sections 9.2 and 9.3 of this Act are complied with.

2015, c. 26, s. 30; 2022, c. 11, s. 57.

95. The child, his parents, the director and any party to the proceedings may apply to the tribunal for the review of a decision or an order, when new facts have arisen since it was rendered.

They may also apply to the tribunal for the extension of a decision or an order if the child's situation so requires.

If the application for a review or an extension seeks a measure that is less restrictive for the child, or one that is more restrictive and that is agreed on by all the parties involved, the following rules apply:

(a) *(paragraph repealed)*;

(b) if the parties do not contest, the tribunal may accept the application without a hearing or proceed to hear the application;

(c) if one of the parties requests it, the tribunal must hear the parties.

1977, c. 20, s. 95; 1984, c. 4, s. 47; 1988, c. 21, s. 119; 1989, c. 53, s. 11; 2006, c. 34, s. 67; 2017, c. 18, s. 71.

95.0.1. If a child is declared eligible for adoption, all inconsistent conclusions in the order issued for the child's protection become inoperative after the expiry of the time limit for filing an appeal from the judgment declaring the child eligible for adoption.

However, if the child's parents consent to the adoption, any inconsistent conclusions in the order issued for the child's protection become inoperative when the order to place the child is issued.

2006, c. 34, s. 68; 2017, c. 12, s. 81; 2022, c. 11, s. 58.

95.1. An application for revision or extension is presented to the judge who pronounced the first judgment. If the judge is absent or unable to act, the application is presented before another judge of the tribunal.

If the child no longer lives in the district where the decision or order was rendered, the application may be brought before the tribunal of his domicile or residence.

1984, c. 4, s. 47; 1988, c. 21, s. 119; 1989, c. 53, s. 11.

95.2. Where the initial decision or order and that granting an application for review or extension are rendered in different districts, the clerk of the district in which the decision or the order for review or extension is rendered shall send a copy thereof to the clerk of the other district so that he may add it to the record.

1984, c. 4, s. 47.

96. Every record of the tribunal is confidential. No person may take cognizance of it or receive a copy or duplicate of it except:

- (a) the child, if he is 14 years of age or over;
- (b) the parents of the child;
- (c) the advocates of the parties;
- (c.1) the Attorney General, the Director of Criminal and Penal Prosecutions or a person either of them has authorized;
- (d) the judge seized of the case and the clerk;
- (e) the director who has taken the situation of the child in charge;
- (f) *(subparagraph repealed)*;
- (g) the Commission;
- (h) the executive director of an institution providing foster care to the child pursuant to a decision or an order of the tribunal;
- (i) *(subparagraph repealed)*;
- (j) the tutor appointed under section 70.1 or replaced under section 70.4, with regard to the record of the tribunal kept under sections 70.1 to 70.6;
- (k) the Public Curator, with regard to the records of the tribunal kept under sections 70.0.1 to 70.6.

In addition, a person who proves a legitimate interest may be authorized by the tribunal to take cognizance of a document the tribunal specifies or to receive a copy or duplicate of it.

However, no person referred to in the first paragraph and excluded from the court-room of the tribunal under section 84 may take cognizance of a record, unless the tribunal limits such prohibition to the documents it specifies.

1977, c. 20, s. 96; 1981, c. 2, s. 23; 1981, c. 7, s. 536; 1984, c. 4, s. 48; 1988, c. 21, s. 119; 1989, c. 53, s. 11, s. 12; 1992, c. 21, s. 238; 1994, c. 35, s. 67; 2005, c. 34, s. 63; 2009, c. 45, s. 11; 2017, c. 18, s. 72.

96.1. A person authorized to take cognizance of a document or record under the third paragraph of section 85.4, section 94.1 or section 96 is bound to respect the confidential nature of the information thus obtained. He is also bound, if a copy of or extract from a document filed in the tribunal record has been issued to him, to destroy that copy or extract as soon as it is of no further use to him.

1981, c. 2, s. 24; 1988, c. 21, s. 119; 1989, c. 53, s. 9, s. 11; 2015, c. 26, s. 31; 2017, c. 18, s. 73.

97. The tribunal may nevertheless allow access to the records for purposes of study, teaching or research, provided that the anonymity of the child and of his parents is preserved.

Every person who contravenes the first paragraph is guilty of contempt of court.

1977, c. 20, s. 97; 1988, c. 21, s. 119; 1989, c. 53, s. 11; 1992, c. 61, s. 467.

98. Every record shall be kept by the tribunal until the person contemplated therein has reached the age of 18 years. It must then be destroyed.

However, the record shall in no case be destroyed before the expiry of the periods for appeal.

1977, c. 20, s. 98; 1988, c. 21, s. 119; 1989, c. 53, s. 11; 1994, c. 35, s. 57; 1999, c. 40, s. 226.

§ 3. —

Repealed, 1984, c. 4, s. 49.

1981, c. 2, s. 25; 1984, c. 4, s. 49.

98.1. *(Repealed).*

1981, c. 2, s. 25; 1984, c. 4, s. 49.

DIVISION II

APPEAL TO THE SUPERIOR COURT

99. For the purposes of this division, the word “Court” means the Superior Court.

1977, c. 20, s. 99.

100. An appeal lies to the Court from any decision or order of the tribunal rendered under the authority of this Act.

The appeal shall be brought to the Court sitting in the judicial district where the decision or the order of the tribunal was rendered, unless, given the circumstances, the Court decides it would be preferable to hear it in another district.

1977, c. 20, s. 100; 1984, c. 4, s. 50; 1988, c. 21, s. 66; 1989, c. 53, s. 11; 2017, c. 18, s. 74.

101. The appeal may be brought by the child, his parents, the director, the Commission, the Public Curator, the Attorney General or any party in first instance, and each of them may, in addition, if not a party to the

appeal, take part *ex officio* in the hearing as if a party thereto. Notice of at least one clear day to the parties in appeal is required.

1977, c. 20, s. 101; 1984, c. 4, s. 51; 1989, c. 53, s. 12; 2005, c. 34, s. 64; 2006, c. 34, s. 69; I.N. 2016-01-01 (NCCP); 2017, c. 18, s. 75.

102. The Court shall try the appeal on the transmission of the record and, if applicable, the depositions of the witnesses; it may, however, hear witnesses, if it so wishes, and even receive any additional evidence.

1977, c. 20, s. 102; 2017, c. 18, s. 76.

103. The appeal is brought by filing a notice of appeal, together with proof of service on or notification to the respondent, at the office of the Court within 30 days of the date on which the decision or order is recorded in writing.

The time limit for appeal is a strict time limit, and the right to appeal is forfeited on its expiry. Nevertheless, the Court may authorize the appeal if it considers that the party has a reasonable chance of success and that, in addition, it was impossible in fact for the party to act earlier.

1977, c. 20, s. 103; 1988, c. 21, s. 66; 1989, c. 53, s. 11; 2017, c. 18, s. 77.

103.1. In addition to being served on or notified to the respondent, the notice of appeal must be served on or notified to the advocate who represented him in first instance.

Within 10 days after service or notification of the notice of appeal, the respondent must file a representation statement giving the name and contact information of the advocate representing him or, if the respondent is not represented, a statement indicating as much.

The advocate who represented the respondent in first instance, if no longer acting for him, must so inform the appellant, the respondent and the office of the Court of Appeal without delay.

2017, c. 18, s. 77.

104. The notice of appeal shall contain the description of the parties, the conclusions of the decision or order to be appealed, the grounds for appeal, the conclusions sought, the name of the district in which the decision or the order was rendered and the date thereof.

1977, c. 20, s. 104; 2017, c. 18, s. 78.

105. The filing of the notice of appeal does not suspend the execution of the decision or the order unless a judge of the Court, upon an application, orders otherwise.

1977, c. 20, s. 105; I.N. 2016-01-01 (NCCP).

106. The clerk of the Court who receives the notice of appeal shall transmit a copy of the notice of appeal to the office of the tribunal. The clerk of the tribunal shall inform the judge who rendered the decision or order of the appeal and transmit the record of the case, together with a list of the documents it contains and a list of the entries made in the register, to the Court without delay.

As soon as the clerk of the tribunal receives a copy of the notice of appeal, he shall also take the necessary steps to obtain the transcript of the witnesses' depositions, unless the Court, at the appellant's request, exempts him from this obligation. As soon as he obtains the transcript, he shall transmit the original to the office of the Court and copies to the parties or their advocate. If it is impossible for him to obtain it, he shall inform the Court clerk and the parties or their advocate.

1977, c. 20, s. 106; 1988, c. 21, s. 66; 1989, c. 53, s. 11; 2017, c. 18, s. 79.

106.1. If the appellant is not able, before the expiry of the time limit for appeal, to provide in the notice of appeal a detailed statement of all the grounds it plans to argue, the Court may, on an application and if serious reasons so warrant, authorize the filing of a supplementary statement within a time and on the conditions it specifies.

2017, c. 18, s. 79.

107. The appeal shall be heard and decided by preference.

1977, c. 20, s. 107.

108. The Court may from time to time adjourn the hearing of an appeal on such conditions as it may consider necessary.

1977, c. 20, s. 108.

109. The appellant may, before the case is heard, discontinue his appeal by filing in the Court office a written discontinuance with evidence of notification to the respondent. The appellant shall then assume the costs of the appeal.

1977, c. 20, s. 109; 2017, c. 18, s. 80.

110. *(Repealed).*

1977, c. 20, s. 110; I.N. 2016-01-01 (NCCP); 2017, c. 18, s. 81.

111. The rules contained in sections 73 to 98 of this Act apply, with the necessary modifications, to this division.

1977, c. 20, s. 111.

112. In deciding on the appeal, the Court may

- (a) uphold or quash the decision or the order appealed from;
- (b) make the decision or the order that the tribunal should have made; or
- (c) make any other order it considers appropriate.

1977, c. 20, s. 112; 1988, c. 21, s. 66; 1989, c. 53, s. 11; 2017, c. 18, s. 82.

113. The Court may decide as to the costs of the appeal and as to the costs before the tribunal.

1977, c. 20, s. 113; 1988, c. 21, s. 66; 1989, c. 53, s. 11.

114. The judgment of the Court is enforceable in the same manner as if it had been rendered by the tribunal.

1977, c. 20, s. 114; 1988, c. 21, s. 66; 1989, c. 53, s. 11; 2017, c. 18, s. 90.

DIVISION III

APPEALS TO THE COURT OF APPEAL

115. An appeal lies to the Court of Appeal, with leave of a judge of that Court, from any judgment of the Superior Court rendered under the authority of this Act, if the party making the application shows a sufficient interest to warrant decision on a question of law only.

1977, c. 20, s. 115; 1984, c. 4, s. 52; 2017, c. 18, s. 83.

116. The appeal is brought before the Court of Appeal sitting at Montreal or at Québec, according to their respective territorial jurisdictions set out in article 40 of the Code of Civil Procedure (chapter C-25.01).

1977, c. 20, s. 116; 2017, c. 18, s. 84.

117. Subject to the provisions of this Act, Title IV of Book IV of the Code of Civil Procedure (chapter C-25.01) applies, with the necessary modifications, to this division.

For the purposes of that Title,

(1) the Superior Court is considered to be the tribunal of first instance;

(2) the contentions of the parties are stated in their memorandums, unless the Court of Appeal determines it is advisable to proceed using briefs; and

(3) all of the depositions and evidence may be filed in hard copy, despite the second paragraph of article 370 of that Code.

1977, c. 20, s. 117; 1999, c. 40, s. 226; I.N. 2016-01-01 (NCCP); 2017, c. 18, s. 85.

118. *(Repealed).*

1977, c. 20, s. 118; I.N. 2016-01-01 (NCCP); 2017, c. 18, s. 85.

119. *(Repealed).*

1977, c. 20, s. 119; I.N. 2016-01-01 (NCCP); 2017, c. 18, s. 85.

120. *(Repealed).*

1977, c. 20, s. 120; I.N. 2016-01-01 (NCCP); 2017, c. 18, s. 85.

121. *(Repealed).*

1977, c. 20, s. 121; I.N. 2016-01-01 (NCCP); 2017, c. 18, s. 85.

122. *(Repealed).*

1977, c. 20, s. 122; 2017, c. 18, s. 85.

123. *(Repealed).*

1977, c. 20, s. 123; I.N. 2016-01-01 (NCCP); 2017, c. 18, s. 85.

124. *(Repealed).*

1977, c. 20, s. 124; 2017, c. 18, s. 85.

125. *(Repealed).*

1977, c. 20, s. 125; 2017, c. 18, s. 85.

126. *(Repealed).*

1977, c. 20, s. 126; 1999, c. 40, s. 226; 2017, c. 18, s. 85.

127. *(Repealed).*

1977, c. 20, s. 127; 2017, c. 18, s. 85.

128. The Court of Appeal or any of its judges may make any appropriate order for the purposes of exercising its jurisdiction, *ex officio* or on application by one of the parties.

1977, c. 20, s. 128; I.N. 2016-01-01 (NCCP); 2017, c. 18, s. 86.

129. Sections 82 to 84, 85, 92, 94, 94.1, 96 to 98, 105, 107 to 109 and 112 to 114 of this Act apply to this division with the necessary modifications.

1977, c. 20, s. 129; 1994, c. 35, s. 59; 2017, c. 18, s. 87.

DIVISION IV

MISCELLANEOUS

130. To facilitate access to justice and to reduce delays, the Minister of Justice may, by regulation, modify a rule of procedure governing judicial interventions provided for in Chapter V or a rule of procedure provided for in any other section that the Minister of Justice is responsible for administering under section 156, or introduce a new one, for the purposes of a pilot project conducted in judicial districts specified by the Minister. The regulation sets the duration of the pilot project, which may not exceed three years.

Before making the regulation, the Minister must consider the effects of the pilot project on the rights of individuals and consult the Chief Judge of the Court of Québec, the Barreau du Québec and, if applicable, the Chambre des huissiers de justice du Québec.

1977, c. 20, s. 130; 1988, c. 21, s. 119; 1989, c. 53, s. 11; 1994, c. 35, s. 60; 2022, c. 11, s. 59.

131. Where, by a judgment of a competent court having no jurisdiction in Québec, the rights of the parents of a child have been established, specified, changed, annulled or contemplated in any manner whatsoever, such judgment is enforceable in Québec unless a decision or an order of the tribunal intervenes in the same matter.

Similarly, a decision or an order rendered by the tribunal in any judicial district of Québec is enforceable in all other districts unless another decision or order of the tribunal is rendered in the same matter.

1977, c. 20, s. 131; 1988, c. 21, s. 119; 1989, c. 53, s. 11; 1999, c. 40, s. 226; 2017, c. 18, s. 90.

CHAPTER V.1

PROVISIONS SPECIFIC TO INDIGENOUS PEOPLE

2022, c. 11, s. 60.

DIVISION I

INTRODUCTORY PROVISIONS AND GENERAL PRINCIPLES

2022, c. 11, s. 60.

131.1. The provisions of this chapter are aimed at adapting the other provisions of this Act to the Indigenous people, taking into account historical, social and cultural factors that are specific to them. They also aim to foster

(a) a holistic approach;

- (b) cultural continuity;
- (c) the responsibility of each community in respect of its children and families;
- (d) the priority intervention of providers offering health services and social services to the community to prevent the situation of an Indigenous child from being taken in charge by the director; and
- (e) the relationships of the child with multiple persons who are important to him.

1982, c. 17, s. 66; 1994, c. 35, s. 67; 2004, c. 3, s. 23; 2022, c. 11, s. 60.

131.2. For the purposes of this chapter, an Indigenous organization in an urban environment that is present in the territory served by the institution operating a child and youth protection centre for which the director works is considered a provider offering health services and social services to the community.

1982, c. 17, s. 66; 2004, c. 3, s. 23; 2022, c. 11, s. 60.

131.3. Every decision made under this Act in respect of an Indigenous child and any other intervention concerning him made under this Act must foster the cultural continuity of that child.

Institutions, bodies and persons having responsibilities towards a child under this Act and persons called upon to make such decisions shall consider, as one of the possible interventions to be made in respect of the child and his parents, having recourse to the available customary and traditional care, if made aware of it.

2022, c. 11, s. 60.

131.4. In determining the interest of an Indigenous child, in addition to the factors listed in the second paragraph of section 3, the following factors must be taken into consideration:

- (a) the culture of the child's Indigenous community, including the language, customs, traditions and spirituality;
- (b) the child's relationships with his extended family and members of that community;
- (c) the child's access to the territory surrounding that community and other places that its members frequent; and
- (d) the sociohistorical traumas of Indigenous people and their socioeconomic conditions.

2022, c. 11, s. 60.

131.5. Where an Indigenous child must, under this Act, be entrusted to an alternative living environment, the living environment chosen must be the one that, considering the interest of that child, is suitable for him in the following order of priority:

- (a) the child's extended family;
- (b) members of his community;
- (c) members of a different community of the same nation as the child's nation;
- (d) members of a nation other than the child's nation; or
- (e) any other environment.

The director must enter in the child's record the reasons justifying the decision made under the first paragraph.

2022, c. 11, s. 60.

DIVISION II

SOCIAL AND JUDICIAL INTERVENTION

2022, c. 11, s. 60.

§ 1. — *Security and development of a child*

2022, c. 11, s. 60.

Not in force

131.6. For the purposes of section 38.2, any decision concerning a report for a situation of neglect or a serious risk of neglect in respect of an Indigenous child must take into consideration, in particular, the following factors:

(a) the measures taken by the parents to meet the child's fundamental needs and the cooperation offered to the providers offering health services and social services to the community, and

(b) the services offered by the service providers to support the parents in the exercise of their responsibilities and to help them meet those needs.

2022, c. 11, s. 60.

§ 2. — *Cooperation*

2022, c. 11, s. 60.

Not in force

131.7. From the time an Indigenous child becomes the subject of a report and at each stage of the director's intervention concerning him, the director shall reach out to the providers offering health and social services to the community for information regarding

(a) the situation of the child, of his parents and of the other members of his family, and

(b) the services that those providers are able to provide to them, including customary and traditional care.

The director shall see to obtaining the providers' cooperation; he acts in concert with those providers willing to cooperate with him, to ensure that their services are coordinated.

2022, c. 11, s. 60.

131.8. Despite section 72.5, as soon as an Indigenous child must be removed from his family environment to be entrusted to an alternative living environment, the director must inform the person responsible for youth protection services in the community of the child's situation. In the absence of such a person, the director shall inform the person who assumes a role in matters of child and family services within the community. The director shall then solicit the cooperation of the person informed of the child's situation in order to foster the cultural continuity of that child and, as far as possible, ensure that the child is entrusted to an alternative living environment in accordance with section 131.5.

2022, c. 11, s. 60.

§ 3. — *Family council*

2022, c. 11, s. 60.

Not in force

131.9. In the following cases, the director shall inform the parents of an Indigenous child, and the child if he is 14 years of age or over, of the possibility of forming a family council:

- (a) a provisional agreement provided for in Division II.1 of Chapter IV has been reached;
- (b) it has been decided by the director, in accordance with section 51, that the security or development of the child is in danger; and
- (c) prior to the review of the child's situation in accordance with section 57 or 57.1.

The council is formed in accordance with Indigenous custom or practice. Where such a council is not formed, the director forms it if the parents and the child, if applicable, request it; he then solicits the cooperation of the community or of an Indigenous organization in an urban environment.

The director is not bound by the obligations set out in the first and second paragraphs in the cases where a family council has already been formed.

For the purposes of this chapter, a family council also includes any other similar authority.

2022, c. 11, s. 60.

Not in force

131.10. The role of the family council is, in particular, to submit observations to the director in respect of a modification or extension of the provisional agreement beyond 30 days and to make proposals concerning

- (a) the measures to put an end to a situation in which the security or development of a child is in danger;
- (b) the measures aimed at ensuring continuity of care and the stability of the child's relationships and of his living conditions; and
- (c) the customary or traditional care appropriate to the child's situation.

2022, c. 11, s. 60.

Not in force

131.11. Before modifying or extending a provisional agreement beyond 30 days and before deciding where the Indigenous child is to be directed or if his situation is to be revised, the director shall solicit the observations of the family council or its proposals, as the case may be, unless he has already received them.

The director is not bound to do so if he considers that the time necessary to obtain the observations or the proposals may result in danger to the security or development of the child.

2022, c. 11, s. 60.

Not in force

131.12. The total period for which an Indigenous child may be entrusted to an alternative living environment is not limited by sections 53.0.1 and 91.1 if a family council has been formed.

2022, c. 11, s. 60.

Not in force

131.13. Where a family council has been formed, the director may review the case of the child at any time other than the time at which he is required to conduct such a review under section 57, if he considers it appropriate or if the council so requests.

2022, c. 11, s. 60.

§ 4. — Consecutive agreements on voluntary measures

2022, c. 11, s. 60.

131.14. Subject to section 131.12, consecutive agreements on voluntary measures referred to in subdivision 3 of Division III of Chapter IV may exceed the three-year term provided for in section 53 if they concern an Indigenous child.

2022, c. 11, s. 60.

§ 5. — Judicial intervention

2022, c. 11, s. 60.

131.15. A person responsible for the youth protection services of an Indigenous community or, in the absence of such a person, the person who assumes a role in matters of child and family services within an Indigenous community or the representative designated by such a community may, in the course of a proceeding concerning an Indigenous child belonging to that community, testify or submit observations, including in writing, before the tribunal, and may, for those purposes, be assisted by an advocate.

The observations mentioned in the first paragraph may cover, in particular the culture, history and traditions of the community, the characteristics of the Indigenous child's living environment and the various services available to the child and his family.

Except in the case of an application under section 47, the director must, as soon as possible, inform the person responsible for the youth protection services of an Indigenous community or, in the absence of such a person, the person who assumes a role in matters of child and family services within an Indigenous community or the designated representative of the Indigenous community, of the date, time and place of the hearing of any application concerning an Indigenous child belonging to that community, of the subject of such an application and of the person's right to participate in the hearing to the extent provided for in this section.

2022, c. 11, s. 60.

DIVISION III

INDIGENOUS CUSTOMARY ADOPTION AND TUTORSHIP

2022, c. 11, s. 60.

131.16. The director shall consider Indigenous customary tutorship or adoption contemplated in article 199.10 or 543.1, as applicable, of the Civil Code if he considers that either of those measures is likely to ensure the interest of the child and the respect of his rights.

2022, c. 11, s. 60.

131.17. In the case of an Indigenous customary adoption for which a new act of birth has been drawn up by the registrar of civil status under article 132 of the Civil Code, any inconsistent conclusions of an order aimed at protecting the child become inoperative on a decision of the tribunal following an application by the director, and the director shall act under section 95 on receiving a copy of the new act of birth from the registrar of civil status.

2022, c. 11, s. 60.

131.18. From the time the child becomes the subject of a report and until the end of the director's intervention, no Indigenous customary tutorship or adoption certificate may be issued in accordance with article 199.10 or 543.1, as applicable, of the Civil Code without the opinion of the director regarding the interest of the child and the respect of his rights.

To that end, the director and the competent authority shall exchange the information needed to enable the director to give an opinion. The director must disclose the information in accordance with section 72.6.1.

The director's opinion must be in writing and give reasons.

2022, c. 11, s. 60.

131.19. Financial assistance may, in the cases and on the terms and conditions prescribed by regulation, be granted by an institution operating a child and youth protection centre to facilitate Indigenous customary tutorship to or adoption of a child whose situation is taken in charge by a director.

2022, c. 11, s. 60.

DIVISION IV

AGREEMENTS IN INDIGENOUS MATTERS

2022, c. 11, s. 60.

131.20. In order to better adapt the application of this Act to Indigenous realities, the Government is authorized, subject to the applicable legislative provisions, to enter into an agreement with an Indigenous nation represented by all the band councils or the councils of northern villages of the communities making up that nation, with the Makivik Corporation, with the Cree Nation Government, with an Indigenous community represented by its band council or by the council of a northern village, with a group of communities so represented or, in the absence of such councils, with any other Indigenous group, for the establishment of a special youth protection program applicable to any child whose security or development is or may be considered to be in danger within the meaning of this Act.

The program established by such an agreement must comply with the provisions of Chapter II and of Division I of Chapter V.1 of this Act and is subject to the provisions of Division I of Chapter III thereof. In particular, the powers provided for in section 26 may be exercised with respect to the record relating to the case of a child to whom such an agreement applies.

The agreement shall specify the persons to whom it applies and define the territory in which the services are to be organized and provided. It shall identify the persons or authorities that will be entrusted with exercising, with full authority and independence, all or part of the responsibilities assigned to the director, and may provide, as regards the exercise of the entrusted responsibilities, procedures different from those provided for in this Act. The agreement shall contain provisions determining the manner in which a situation is to be taken in charge by the youth protection system provided for in this Act.

The agreement shall also provide measures to evaluate its implementation, and specify the cases, conditions and circumstances in which the provisions of the agreement cease to have effect.

To the extent that they comply with the provisions of this section, the provisions of an agreement shall have precedence over any inconsistent provision of this Act and, as regards the organization and provision of services, of the Act respecting health services and social services (chapter S-4.2) or of the Act respecting health services and social services for Cree Native persons (chapter S-5).

The Nunavik Regional Board of Health and Social Services governed by the Act respecting health services and social services must be a party to the agreement entered into with the Makivik Corporation.

The Cree Board of Health and Social Services of James Bay covered by the Act respecting health services and social services for Cree Native persons must be a party to the agreement entered into with the Cree Nation Government.

Any agreement entered into under this section shall be tabled in the National Assembly within 15 days of being signed, or, if the Assembly is not sitting, within 15 days of resumption. It shall also be published in the *Gazette officielle du Québec*.

2022, c. 11, s. 60.

131.21. For the purposes of this Act, the person or the authority referred to in the third paragraph of section 131.20 that is entrusted with all or part of the responsibilities assigned to the director is, where exercising those responsibilities, considered that director unless the agreement entered into under that section provides otherwise.

2022, c. 11, s. 60.

131.22. When the director intervenes in a living environment to which an Indigenous child covered by an agreement entered into under section 131.20 is entrusted, he shall notify the persons or authorities of that child's Indigenous community who are entrusted, if applicable, with all or part of the responsibilities assigned to the director within the framework of that agreement.

The person or authority thus notified of the director's intervention may require that the director send him or it the information specified by that person or authority, provided such information is necessary for the exercise of his or its duties. If the director holds any such information, he sends it as soon as possible, despite section 72.5.

2022, c. 11, s. 60.

131.23. In order to foster the cultural continuity of Indigenous children and the involvement of Indigenous communities in the decision-making and choice of measures concerning those children, an institution operating a child and youth protection centre may enter into an agreement with an Indigenous community represented by its band council or by the northern village council or with a group of communities so represented, which stipulates that such a community or such a group is to recruit and evaluate, in keeping with the general criteria determined by the Minister, persons able to take in one or more children who are members of the community and who are entrusted to them under this Act.

Such an agreement may also stipulate any other responsibility of the community or group in relation to these persons' activities, in accordance with ministerial policy directions.

2022, c. 11, s. 60.

131.24. Whenever this Act provides that a child may be entrusted to a foster family, the child who is Indigenous may also be entrusted to a person or persons whose activities are under the responsibility of an Indigenous community or a group of communities with whom an institution operating a child and youth protection centre has entered into an agreement under section 131.23 in respect of such activities or with whom the Government has entered into an agreement under section 131.20 which includes such activities.

Those persons are then considered to be foster families for the purposes of this Act.

2022, c. 11, s. 60.

131.25. An institution operating a child and youth protection centre may, for the same purposes as those mentioned in section 131.23, enter into an agreement with an Indigenous community represented by its band council or by the northern village council or with a group of communities so represented that specifies the terms applicable to the authorizations granted by the director for the exercise of one or more of the director's exclusive responsibilities provided for in the following paragraph.

The director may, within the framework of such an agreement, authorize a person who is a staff member of the Indigenous community or group of communities, in writing and to the extent the director specifies,

(a) to carry out the assessment of a child's situation and living conditions provided for in subparagraph *b* of the first paragraph of section 32, without, however, allowing that person to decide whether the security or development of the child is in danger; and

(b) to exercise, under the director's authority as regards clinical matters or under the authority of the person the director authorizes in writing, one or more of the responsibilities provided for in subparagraphs *b* to *e* and *h.1* of the first paragraph of section 32.

Section 35 and any other section that applies to a person acting under section 32 apply to a person authorized to exercise a responsibility under this section. The director may, at any time, terminate an authorization.

2022, c. 11, s. 60.

131.26. An institution may enter into an agreement with an Indigenous community represented by its band council or by the northern village council or with a group of communities so represented that specifies the responsibilities assigned to that community or that group relating to the granting of the financial assistance provided for in any of sections 70.3, 71.3 and 131.19.

2022, c. 11, s. 60.

CHAPTER VI

REGULATIONS AND DIRECTIVES

1984, c. 4, s. 53.

132. The Government may make regulations

(a) *(subparagraph repealed)*;

(b) to determine the elements an agreement respecting voluntary measures must contain;

(c) to determine the norms relating to the review of a child's situation by the director;

(d) to determine the reports or documents necessary for the review and the time limits within which the reports and documents are required to be sent to the director;

(e) *(subparagraph repealed)*;

(e.1) to determine the cases in which and the terms and conditions on which financial assistance may be granted to facilitate Aboriginal customary tutorship to or adoption of a child whose situation is taken in charge by the director;

(f) to determine in what cases, according to what criteria and on what conditions an institution operating a child and youth protection centre may grant financial assistance to facilitate the adoption of a child;

(g) to prescribe the conditions and modalities on or according to which the director may intervene in accordance with section 71.9;

(h) to determine in what cases and on what terms and conditions a person must undergo training prior to adopting a child domiciled outside Québec, and determine the persons qualified to give that training and the criteria applicable thereto;

(i) to determine the terms and conditions on which financial assistance may be granted to facilitate tutorship to a child;

(j) to establish the register referred to in section 72.9 and indicate which personal information will be entered in it and on what conditions, as well as who will be in charge of it; and

(k) determine the conditions applicable to placement in an intensive supervision unit, as provided for in section 11.1.1, and to measures intended to prevent a child from leaving the facilities maintained by the institution operating a rehabilitation centre, as provided for in section 11.1.2.

1977, c. 20, s. 132; 1981, c. 2, s. 26; 1982, c. 17, s. 67; 1984, c. 4, s. 54; 1985, c. 23, s. 24; 1986, c. 104, s. 2; 1987, c. 44, s. 13; 1994, c. 35, s. 61; 2004, c. 3, s. 24; 2006, c. 34, s. 70; 2017, c. 12, s. 82; 2017, c. 18, s. 88.

133. With a view to studying, improving or defining standards and obligations applicable to the responsibilities or to the social intervention of the director in order to, among other things, reduce response times, the Minister of Health and Social Services may, by regulation, implement a pilot project on matters within the scope of the provisions of sections 32 or 33, of Divisions II, III or III.1 of Chapter IV or of Division II of Chapter V.1.

Such a regulation sets out the standards and obligations applicable within the framework of a pilot project, which may differ from those provided for in the provisions referred to in the first paragraph. It also sets out the monitoring and reporting mechanisms applicable to the pilot project and its duration, which may not exceed three years.

The Minister must consult with the panel of directors before making such a regulation. The Minister must also obtain the approval of the representatives designated by the Indigenous communities concerned regarding the standards and obligations applicable to the matters within the scope of Division II of Chapter V.1.

1977, c. 20, s. 133; 2017, c. 12, s. 83; 2022, c. 11, s. 61.

133.1. The Minister of Health and Social Services may, with the prior approval of the Government, give directives to the institutions to ensure that the objectives of the social intervention are achieved.

These institutions are required to follow the directives.

1984, c. 4, s. 55; 1985, c. 23, s. 24; 1992, c. 21, s. 375.

CHAPTER VII

PENAL PROVISIONS

1992, c. 61, s. 468.

134. No person may

(a) refuse to comply with a decision or an order rendered under this Act or advise, encourage or incite a person not to comply with it;

(b) refuse to answer the director, any person authorized under section 32 or 33, any person or authority to whom or to which responsibilities assigned to the director are entrusted under section 131.20, or any person employed by the Commission and acting under paragraph *b* of section 23 or section 25, hinder or attempt to hinder him, or mislead or attempt to mislead him by concealment or false declaration, when the director, that authority or that person is acting in the performance of his or its duties;

(b.1) refuse or neglect to communicate information or a record or to give explanations required under section 35.4;

(c) hinder or attempt to hinder a member of the Commission acting in the performance of his duties;

(d) if he is required to do so, fail to bring the situation of a child to the attention of the director or of any person or authority to whom or to which responsibilities assigned to the director are entrusted under section 131.20 if he has reasonable grounds to believe that the child's security or development is or may be considered to be in danger or advise, encourage or incite a person required to do so not to bring such a situation to the attention of the director or of such a person or authority;

(e) advise, encourage or incite a child to leave an institution where he has been placed under this Act;

(f) retain or attempt to retain a child where a person acting pursuant to this Act requests that the child be handed over to him;

(g) knowingly disclose confidential information contrary to the provisions of this Act or the provisions of the Civil Code that relate to the confidentiality of adoption files.

Every person who contravenes this section is guilty of an offence and liable to a fine of \$250 to \$2,500.

1977, c. 20, s. 134; 1984, c. 4, s. 56; 1989, c. 53, s. 10, s. 12; 1990, c. 4, s. 690; 1991, c. 33, s. 105; 1992, c. 21, s. 375; 1994, c. 35, s. 62; 2001, c. 33, s. 2; 2017, c. 12, s. 84; 2022, c. 11, s. 62.

135. Every person who contravenes any provision of the first paragraph of section 9.3 or fails, refuses or neglects to protect a child in his custody or performs acts that may endanger the security or development of a child is guilty of an offence and is liable to a fine of \$625 to \$5,000.

1977, c. 20, s. 135; 1984, c. 4, s. 56; 1990, c. 4, s. 691; 1991, c. 33, s. 106; 1994, c. 35, s. 63; 2006, c. 34, s. 71; 2022, c. 11, s. 63.

135.0.1. Every person who contravenes section 72 is guilty of an offence and is liable to a fine of \$1,000 to \$6,000 and, in the case of a second or subsequent conviction, to a fine of \$3,000 to \$18,000.

2004, c. 3, s. 25.

135.1. Whether the placement or the adoption takes place in Québec or elsewhere and whether or not the child is domiciled in Québec, no person may

(a) give, receive or offer or agree to give or receive, directly or indirectly, a payment or a benefit either for giving or obtaining a consent to adoption, for finding a placement or contributing to a placement with a view to adoption or for obtaining the adoption of a child;

(b) contrary to this Act or to any other legislative provision relating to the adoption of a child, place or contribute to the placement of a child with a view to the child's adoption or contribute to the child's adoption;

(c) contrary to this Act or to any other legislative provision relating to the adoption of a child, adopt a child.

1982, c. 17, s. 68; 1983, c. 50, s. 13; 1984, c. 4, s. 57; 1986, c. 104, s. 3; 1987, c. 44, s. 14; 1990, c. 29, s. 12; 1990, c. 4, s. 692; 1991, c. 33, s. 107; 1994, c. 35, s. 64; 2004, c. 3, s. 26.

135.1.1. No person may cause to enter or contribute towards causing to enter Québec a child domiciled outside Québec with a view to adoption of the child contrary to the procedure for adoption provided in articles 563 and 564 of the Civil Code and in section 71.7 and in the first paragraph of section 71.8 of this Act.

1990, c. 29, s. 13; 1994, c. 35, s. 65; 2004, c. 3, s. 27; 2017, c. 12, s. 85.

135.1.2. No person may falsely represent himself to be a certified organization or falsely lead to the belief that an organization is certified by the Minister for the purposes of the provisions of this Act respecting adoption of a child domiciled outside Québec.

1990, c. 29, s. 13.

135.1.3. Every person who contravenes a provision of any of sections 135.1, 135.1.1 and 135.1.2 is guilty of an offence and is liable

(a) to a fine of \$10,000 to \$100,000 in the case of a natural person or to a fine of \$25,000 to \$200,000 in the case of a legal person, for a contravention of paragraph *a* or *b* of section 135.1 or a contravention of section 135.1.1 or 135.1.2;

(b) to a fine of \$2,500 to \$7,000 for a contravention of paragraph *c* of section 135.1.

1990, c. 29, s. 13; 1994, c. 35, s. 66; 2004, c. 3, s. 28.

135.2. For each subsequent conviction, the amounts of the fines provided for in sections 134, 135 and 135.1.3 are doubled.

1984, c. 4, s. 58; 1990, c. 29, s. 14; 1990, c. 4, s. 693; 2004, c. 3, s. 29.

135.2.1. Every person who assists another person in committing an offence under any of sections 135.1, 135.1.1 and 135.1.2 or who, by encouragement, advice or consent, or by an authorization or an order, induces another person to commit such an offence, is guilty of an offence. The same applies to any person who attempts to commit an offence under any of those sections.

A person convicted of an offence under this section is liable to the same penalty as that prescribed for the offence the person assisted in committing or induced or attempted to commit.

2004, c. 3, s. 30.

135.2.2. *(Repealed).*

2017, c. 18, s. 89; 2023, c. 20, s. 109.

136. *(Repealed).*

1977, c. 20, s. 136; 1984, c. 4, s. 59; 1990, c. 4, s. 694.

CHAPTER VIII

TRANSITIONAL AND FINAL PROVISIONS

137. *(Omitted).*

1977, c. 20, s. 137.

138. *(Omitted).*

1977, c. 20, s. 138.

139. *(Amendment integrated into c. T-16, s. 110 — French).*

1977, c. 20, s. 139.

140. *(Amendment integrated into c. T-16, s. 114).*

1977, c. 20, s. 140.

141. *(Amendment integrated into c. T-16, ss. 116-116.1).*

1977, c. 20, s. 141.

142. *(Amendment integrated into c. T-16, s. 117).*

1977, c. 20, s. 142.

143. *(Amendment integrated into c. T-16, s. 120).*

1977, c. 20, s. 143.

144. *(Amendment integrated into c. T-16, s. 121.1).*

1977, c. 20, s. 144.

145. *(Omitted).*

1977, c. 20, s. 145.

146. *(Omitted).*

1977, c. 20, s. 146.

147. *(Omitted).*

1977, c. 20, s. 147.

148. *(Amendment integrated into c. C-68, s. 19).*

1977, c. 20, s. 148.

149. *(Amendment integrated into c. E-8, s. 18).*

1977, c. 20, s. 149.

150. *(Amendment integrated into c. A-7, s. 6).*

1977, c. 20, s. 150.

151. *(Amendment integrated into c. A-7, s. 7).*

1977, c. 20, s. 151.

152. *(Repealed).*

1977, c. 20, s. 152; 1984, c. 4, s. 60.

153. Every decision, order or recommendation made or rendered by a judge or the Minister of Health and Social Services under the Youth Protection Act (Revised Statutes, 1964, chapter 220) replaced by this Act continues to have effect and may be amended as if it had been made or rendered under this Act.

1977, c. 20, s. 153; 1985, c. 23, s. 24.

154. *(Omitted).*

1977, c. 20, s. 154.

155. The master file kept by the Comité pour la protection de la jeunesse under the Youth Protection Act replaced by this Act belongs to the Commission.

1977, c. 20, s. 155; 1989, c. 53, s. 12.

156. The Minister of Justice is responsible for the administration of sections 23 to 27, 47, 73 to 131, 131.15, 131.17, 134 to 136, 154 and 155, except with respect to the director's intervention under section 95.0.1 or 131.17. The Minister of Health and Social Services is responsible for the administration of the other sections of this Act.

1977, c. 20, s. 156; 1984, c. 4, s. 61; 1985, c. 23, s. 24; 1996, c. 21, s. 62; 2005, c. 24, s. 46; 2017, c. 12, s. 86; 2022, c. 11, s. 64.



The Minister responsible for Social Services exercises the functions and responsibilities of the Minister of Health and Social Services in respect of child and youth protection provided for in this Act. Order in Council 1652-2022 dated 20 October 2022, (2022) 154 G.O. 2 (French), 6520.

156.1. Not later than 9 July 2010 and subsequently every five years, the Commission must report to the Government on the carrying out of this Act and on the advisability of amending it.

The Minister of Justice or the Minister of Health and Social Services lays the report before the National Assembly within 30 days of its receipt by the Government or, if the Assembly is not sitting, within 30 days of resumption.

2006, c. 34, s. 72.

156.2. Within the same time limits as those prescribed for the Commission in section 156.1, the Minister of Health and Social Services must lay a study before the National Assembly measuring the impact of this Act on the stability and living conditions of children and, if necessary, recommend amendments to the Act.

2006, c. 34, s. 72.

157. The moneys required for the carrying out of this Act shall be taken for the fiscal years 1977/1978 and 1978/1979 out of the Consolidated Revenue Fund, and for subsequent fiscal years, out of the moneys granted each year for that purpose by Parliament.

1977, c. 20, s. 157.

158. *(Omitted).*

1977, c. 20, s. 158.

159. *(This section ceased to have effect on 17 April 1987).*

1982, c. 21, s. 1; U. K., 1982, c. 11, Sch. B, Part I, s. 33.

160. From 26 April 2022 to 25 April 2023,

(1) the director of youth protection or a person referred to in section 32 has the powers provided for in section 36, as it read on 25 April 2022, and must, on a request made in the context of the exercise of one of those powers, identify himself and produce a certificate of his capacity; and

(2) an institution must, on request, forward to the director a copy of the record kept on a child regarding whom the director has accepted a report.

2022, c. 26, s. 11.

REPEAL SCHEDULE

In accordance with section 17 of the Act respecting the consolidation of the statutes and regulations (chapter R-3), chapter 20 of the statutes of 1977, in force on 1 June 1979, is repealed, except sections 138, 145 and 154, effective from the coming into force of chapter P-34.1 of the Revised Statutes.