

chapter P-34

YOUTH PROTECTION ACT

*Chapter P-34 is replaced by the Youth Protection Act (chapter P-34.1). (1977, c. 20, s. 146).
1977, c. 20, s. 146.*

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DIVISION I

INTERPRETATION

1. *In this act, the following terms mean:*

(a) *“department” : the Ministère des affaires sociales;*

(b) *“school” : a youth protection school recognized as such by the Gouvernement under section 2 of this act;*

(c) *“judge” : a judge of the Provincial Court, except in a territory under the jurisdiction of a Social Welfare Court, where it means a judge of such court;*

(d) *“Minister” : the Minister of Social Affairs;*

(e) *“person in authority” : the father, mother, tutor and subrogate tutor of a child, rector (curé), any school commissioner of the locality where the child is, any person designated ex officio by the judge in a particular case, and any officer of any social organizations looking after the welfare and protection of children and who shall be officially recognized as such by the Minister;*

(f) *“child” : a boy or a girl apparently or effectively aged less than eighteen years;*

(g) *“domicile of the child” : the last place of residence of his father and mother, tutor or guardian, during twelve consecutive months;*

(h) *“public charitable institution” : any reception centre or social service centre within the meaning of the Act respecting health services and social services (chapter S-5);*

(i) *“social agency” : a social service centre within the meaning of the Act respecting health services and social services (chapter S-5).*

R. S. 1964, c. 220, s. 1; 1965 (1st sess.), c. 17, s. 2; 1970, c. 42, s. 17; 1971, c. 48, s. 151; 1974, c. 42, s. 68; 1977, c. 5, s. 14.

DIVISION II

ESTABLISHMENT OF SCHOOLS

2. *Any institution wishing to be recognized as a youth protection school shall apply therefor to the Minister. The latter may order an investigation as to the conditions of salubrity and regulations of the school and the competence of the personnel, in order to determine if it is fit to receive the children who may be entrusted to it.*

If the report of the investigation is deemed favourable, the Gouvernement, upon the recommendation of the Minister, may recognize the institution as a youth protection school.

R. S. 1964, c. 220, s. 2.

3. *The Gouvernement may authorize the Minister to make contracts with any school so recognized, for the admission, custody and maintenance of the children who may be placed therein.*

R. S. 1964, c. 220, s. 3.

4. *The Gouvernement may, upon the recommendation of the Minister, revoke at any time the recognition mentioned in section 2, by giving at least two months' written notice to the director of the school.*

R. S. 1964, c. 220, s. 4.

5. *The notice of the recognition of a school or of its revocation shall be published in the Gazette officielle du Québec as soon as possible.*

R. S. 1964, c. 220, s. 5.

6. *The schools shall be visited at least once a year by a representative of the Minister who shall report to the Minister without delay.*

R. S. 1964, c. 220, s. 6.

7. *No change of any importance shall be made to a school without the prior approval of the Minister:*

R. S. 1964, c. 220, s. 7.

8. *The Minister shall classify youth protection schools in such a way as to permit of a proper segregation of the children, taking into account their sex, age, religion and physical and intellectual development, and their antecedents.*

Such classification shall be communicated to the directors of schools and to the judges.

R. S. 1964, c. 220, s. 8.

DIVISION III

DUTIES OF DIRECTORS OF SCHOOLS

9. *The director of each school shall establish rules for the discipline and internal management of his institution.*

Such rules, in order to come into force, must be approved by the Minister. They must be compatible with the regulations adopted by the latter under section 50.

R. S. 1964, c. 220, s. 9.

10. *The director shall receive and keep all the children entrusted to him pursuant to this act, up to the maximum number fixed by the contract passed under section 3.*

However, no child less than six years of age may be admitted to a school.

R. S. 1964, c. 220, s. 10.

11. *Directors are not obliged to receive or keep children whose physical or mental condition prevents them from conforming to the regulations of the school. Such disability shall be determined by the clinical services designated by the Minister.*

R. S. 1964, c. 220, s. 11.

12. *The directors shall lodge, clothe, feed, educate and teach the children entrusted to them as provided in this act, and procure for them all the medical care that their condition requires.*

R. S. 1964, c. 220, s. 12.

13. *The director shall facilitate the visiting of the school by the Minister and his representatives.*

He shall also furnish, on demand, such information as the Minister or his authorized representatives wish to obtain with respect to the employment of the sums paid to the school by the Gouvernement, and give them access to the books of account.

R. S. 1964, c. 220, s. 13; 1977, c. 5, s. 14.

14. *The provisions of this act shall not be interpreted as derogating from the rights of the ordinary over Catholic religious communities, or from their religious, moral and disciplinary interests.*

R. S. 1964, c. 220, s. 14.

DIVISION IV

PROTECTION OF CHILDREN SUBJECT TO ILL-TREATMENT

15. *A committee is established under the name of “Comité pour la protection de la jeunesse”.*

1974, c. 59, s. 1.

16. *It is the function of the committee to promote the protection of children subject to physical ill-treatment as the result of abuse or neglect, to prevent such abuse and neglect and to preserve the family life of the child as far as possible.*

1974, c. 59, s. 1.

17. *The committee is composed of a president, a vice-president and not more than ten members chosen from among persons of various professions or occupations concerned with child protection.*

The president and the vice-president must attend exclusively to their official duties.

1974, c. 59, s. 1.

18. *The committee shall have a permanent secretariat in each of the cities of Montréal and Québec.*

It may establish offices elsewhere in Québec if necessary.

1974, c. 59, s. 1.

19. *The members of the committee shall be appointed by the Gouvernement, on the recommendation of the Minister of Justice and of the Minister of Social Affairs.*

Subject to such reservation, the president, the vice-president, the secretaries and the employees of the committee shall be appointed and remunerated in accordance with the Civil Service Act (chapter F-3).

The members of the committee and persons employed by the committee cannot be prosecuted for acts performed in good faith in the exercise of their functions.

1974, c. 59, s. 1.

20. *The members of the committee, other than the president and the vice-president, shall be appointed during good pleasure; they shall be reimbursed for their expenses in attending sittings of the committee; they shall also receive an attendance allowance fixed by the Gouvernement.*

1974, c. 59, s. 1.

21. *The committee shall have persons at its service, in numbers deemed sufficient, charged with collecting necessary or useful information for the committee.*

Such persons may, by any lawful means they think best, inquire into matters referred to them for investigation. They may at any suitable time enter any premises or place where it is presumed that a child is subject to physical ill-treatment and interrogate any witness there.

1974, c. 59, s. 1.

22. *Every person who refuses to reply to a person contemplated in section 21, misleads him or prevents him in any way from carrying out his duties is guilty of an offence.*

1974, c. 59, s. 1.

23. *The committee shall hold sittings as often as necessary.*

The president or the vice-president must be present at a sitting for such sitting to be held validly.

1974, c. 59, s. 1.

24. *Every person, even one having privileged information by reason of his office, who has reasonable cause to believe that a child is subject to physical ill-treatment as the result of abuse or neglect is bound to bring the situation to the attention of the committee without delay.*

Failure to observe the preceding paragraph is an offence under this act.

1974, c. 59, s. 1.

25. *No civil action may be instituted on the grounds that a person has, in good faith, brought a situation contemplated in section 24 to the attention of the committee.*

1974, c. 59, s. 1.

26. *The committee or a person in its service must not reveal the identity of the person who has brought a situation contemplated in section 24 to its attention, without his consent.*

The members of the committee or the persons employed by it shall not divulge any information obtained in the exercise of their duties without the authorization of the committee.

1974, c. 59, s. 1.

27. *When a situation contemplated in section 24 has been brought to the attention of the committee, it must, through a person contemplated in section 21, inquire into any fact relating to the situation.*

1974, c. 59, s. 1.

28. *After obtaining the report of the person contemplated in section 21, the committee shall examine the situation.*

If it comes to the conclusion that there are not sufficient grounds for intervention, it shall close the record.

If it considers that measures must be taken for the protection of the child although intervention by the Court is not required, it shall make the appropriate recommendations.

If it comes to the conclusion that the Court should intervene, it shall refer the matter to the Court.

1974, c. 59, s. 1.

29. *The committee shall, through a person contemplated in section 21, pass on its recommendations to the persons concerned.*

It may instruct such person to report to it, within the delay it may indicate, on the progress of the situation.

1974, c. 59, s. 1.

30. *The committee shall keep, in the form prescribed by regulation of the Gouvernement, a master file of the information communicated to it. Such file shall be for the exclusive use of the committee or the Court.*

1974, c. 59, s. 1.

31. *The Court may, when seized of a situation in which a child is subject to physical ill-treatment as the result of abuse or neglect, entrust the supervision of the child to one of the persons contemplated in section 21 and oblige such person to report to it.*

1974, c. 59, s. 1.

DIVISION V

ADMISSION AND SOJOURN OF CHILDREN IN SCHOOLS

32. (1) *When a child is particularly exposed to moral or physical dangers, by reason of its environment or other special circumstances, and for such reasons needs to be protected, any person in authority may bring him or have him brought before a judge. A judge may also, upon information which he deems serious, to the effect that a child is in the above described conditions, order that he brought before him.*

Without limiting the generality of the provisions of the preceding paragraph, children whose parents, tutors or guardians are deemed unworthy, orphans with neither father nor mother and cared for by nobody, abandoned illegitimate or adulterine children, those particularly exposed to delinquency by their environment, unmanageable children generally showing pre-delinquency traits, as well as those exhibiting serious character disturbances, may be considered as being in the conditions contemplated by the preceding paragraph.

Throughout the pendency of the case, the judge, in case of urgency, may take for the benefit of the child such provisional protective measures as he may deem useful by confiding the child to any person, home, society, reception centre or institution capable or receiving him temporarily.

The judge may also, whenever he deems it expedient, issue an order to bring or have brought before him any child whose case is pending before the court.

The judge shall make an inquiry, in judicial form, into the particular circumstances in which the child is situated.

Notice in writing of such inquiry and of the time and place when and where it will be held must be served on the father and mother or one of them, on the tutor or on those having custody of the child; the latter shall have the right to be heard and to submit any proof which the judge deems relevant.

(2) *The judge may then, according to circumstances and after consultation, if need be, with a social agency, leave the child at liberty under supervision, confide him to any person or society, recommend to the Minister that he be entrusted to a school, to a public charitable institution or to a social agency, or take any other decision in the interest of the child.*

Furthermore, notwithstanding any legislative provision inconsistent with this act, the judge may, upon application by a person in authority and in the best interest of the child, amend or subsequently annul the recommendation or order made by him, in accordance with the provisions of the preceding paragraph.

When the judge feels obliged to make a recommendation to the Minister, he shall send him, in duplicate, a report giving his reasons therefor. He shall transmit to him at the same time two certified copies of the report of the social inquiry and a copy of the child's act of birth, if he has been able to obtain it; if not, he shall indicate the age of the child as he may be able to establish it by other evidence or by his apparent age.

When, under the provisions of this section, the judge recommends that the child be entrusted to a public charitable institution or social agency, the provisions of this act shall apply to such child, save that the costs of custody of the child shall then be paid and apportioned in accordance with the Act respecting health services and social services (chapter S-5).

The judge shall determine, according to the evidence adduced before him, the place where the child is domiciled and shall mention it in his report to the Minister; he may subsequently revise, upon petition presented to him for the purpose, such designation of domicile or determine the same if he was unable to do so in the first place, and he must then make a new report to the Minister accordingly.

R. S. 1964, c. 220, s. 15 (part); 1971, c. 48, s. 160.

33. *Whenever, in any case contemplated by subsection 1 of section 32, a judge cannot be conveniently reached, any person in authority may bring the child or have him brought before the prothonotary of the district or before a Clerk of the Provincial Court exercising his functions at the chief place or in the locality where the child is.*

The prothonotary or the clerk before whom the child is brought shall then investigate and obtain all information contemplated by section 32 and shall make a report, in duplicate, to the Minister, on a form provided by the latter.

R. S. 1964, c. 220, s. 16; 1965 (1st sess.), c. 17, s. 2.

34. *When the Minister is informed that a child is within the conditions of subsection 1 of section 32 and that no person in authority takes the initiative in bringing him before a judge, the prothonotary or clerk of the Provincial Court, he may himself, after investigation, establish the domicile of the child and authorize his admission to a school if he deems it necessary for his protection.*

R. S. 1964, c. 220, s. 17; 1965 (1st sess.), c. 17, s. 2.

35. *When the Minister decides, following a recommendation made to him under section 32, or under section 33, or upon the application of section 34, that a child must be confined to a school, to a public charitable institution or social agency, he shall sign, having regard for its classification, an order of admission. A copy of such order shall be forwarded to the director as well as to the municipal corporation concerned.*

Such order constitutes a sufficient power to convey and place the child in such school or institution or to entrust him to a social agency, as well as ensuring the payment of the costs incurred for his subsequent transfer, should the case arise, under sections 39 and 40.

R. S. 1964, c. 220, s. 18.

36. *When an order is made under any law other than this act, for the admission of a child to an institution legally authorized to receive him, another order shall be made at the same time establishing the domicile of the child according to the evidence adduced at the hearing.*

The clerk shall forward forthwith to the Minister and to the institution to which the child is to be admitted, a certified copy of each of such two orders, of the report of the social inquiry, of the child's act of birth and of the notes of the evidence.

R. S. 1964, c. 220, s. 19.

37. (1) *Any person in authority may, within sixty days from the issue of an order of admission contemplated by section 35 and made pursuant to a recommendation given under section 33 or through the application of section 34, apply to a judge for the revision of such admission order.*

Such application shall be made,

(a) *in the case of a recommendation made under section 33, before the judge sitting in the locality where the prothonotary or clerk issued the recommendation for admission or the place nearest to such locality;*

(b) *in the case of the application of section 34, before the judge sitting at the place nearest to the domicile of the child, as designated by the Minister; or, failing such designation, before a judge sitting at the place nearest to the domicile of the applicant.*

A copy of the judge's recommendation shall be forwarded to the Minister.

(2) *The municipal corporation in whose territory the domicile of the child has been established under sections 32, 33 or 34 may apply to the judge for a revision of the decision on that point.*

Such application shall be made,

(a) *in the case of section 32, before a judge sitting in the court of the domicile of the child;*

(b) *in other cases, before the judge sitting at the place nearest to such domicile.*

The judge seized of such application shall give notice thereof to every party whom he deems interested in the case.

A copy of his judgment shall be transmitted to the Minister.

R. S. 1964, c. 220, s. 20.

38. *Every child in respect of whom an order of admission to a school is issued must, unless it be impossible, be admitted to a school of his religious denomination or that of his parents. If the latter ask that the child be placed in a school of another religious denomination, their request may be granted, but for serious reasons only.*

In any decision respecting the custody of a child, his religious denomination or that of his parents must be taken into account unless it is impossible to do so.

R. S. 1964, c. 220, s. 21.

39. (1) *The director of a school or public charitable institution may, when he deems it in the interest of a child, allow him, under his supervision, to be absent from such school or institution to follow courses necessary for his education or occupational training, or to stay temporarily with his family or another family deemed reliable.*

(2) *The Minister may, at any time before the expiration of the term fixed by the order admitting a child to a school or public charitable institution, authorize his transfer to any school or public charitable institution under his jurisdiction.*

If the child is transferred from a school to a public charitable institution, the cost of custody shall then be paid at the rate fixed by the Act respecting health services and social services (chapter S-5).

R. S. 1964, c. 220, s. 22; 1971, c. 48, s. 160.

40. *In the case of a child entrusted to a school under an order given pursuant to a recommendation contemplated in section 32 or section 33 or through the application of section 34, the Minister may, if he deems it in the interest of the child to complete his training or for any other reason, entrust him to any other institution devoted to the welfare of youth.*

R. S. 1964, c. 220, s. 23.

41. *When it is established that a child is still in need of protection, the Minister may order the extension of his stay in a school.*

R. S. 1964, c. 220, s. 24.

42. *The director of the school shall send to the Minister, each week, a report showing the dates of admissions and discharges of children during the week with their names and domiciles.*

R. S. 1964, c. 220, s. 25.

DIVISION VI

COST OF CUSTODY OF CHILDREN

43. *When the placing of a child is effected in accordance with this act, the judge may at any time issue an order compelling any person who must pay a contribution for a beneficiary who is a minor in accordance with the provisions of section 159 of the Act respecting health services and social services, to pay such contribution for the child. The contribution shall then be collected in accordance with the said Act respecting health services and social services and the person from whom the payment is exacted may, if such is the case, be exempted in accordance with the provisions of section 160 of the said act.*

R. S. 1964, c. 220, s. 26; 1974, c. 42, s. 69.

DIVISION VII

OFFENCES

44. (1) *Whenever a child escapes from a school or from any other institution to which he has been entrusted under this act, or refuses or neglects to return to it after the expiration of leave granted under subsection 1 of section 39, the director shall take the necessary measures to bring him back.*

Any peace officer or other person authorized for the purpose by the director may, without warrant, take charge of the child and return him to such school or institution or to another school or institution designated by the Minister.

(2) *Every child who escapes from a school or other institution to which he has been entrusted under this act, or refuses or neglects to return to it after the expiration of a leave of absence, or neglects or refuses to comply with the rules of the school or other institution may, upon a report, giving reasons, by the director of the school or institution, be brought before the judge. The latter may impose on such child, in view of the particular reasons for his reappearance before him, such order and conditions as he deems to be in the child's interest.*

R. S. 1964, c. 220, s. 38.

45. (1) *Whosoever prevents or attempts to prevent the carrying out of the admission order for a child issued under the provisions of this act, or counsels a child to escape from a school or other institution, or to abstain from returning to it after the expiry of leave granted under subsection 1 of section 39, or assists in his escape, or hides him, or prevents him from returning to the school or institution, is liable, on summary proceeding, to a fine not exceeding one hundred dollars or to imprisonment not exceeding three months, or to both penalties together, besides the costs.*

In the districts where there is a Social Welfare Court, such prosecution shall be heard by a judge of such court and, in the other districts, by a judge of the Provincial Court having jurisdiction at the place of the offence.

(2) *Whosoever wilfully and without valid excuse exposes a child to a serious moral or physical danger or, being responsible for such child, neglects to protect him from such danger in a manner and in circumstances*

not covered by the Criminal Code, is liable, on summary proceeding, to a fine not exceeding three hundred dollars or to imprisonment not exceeding one year, or to both penalties together, in addition to the costs.

If the judge finds the accused guilty of the offence charged against him, he may suspend sentence and impose upon him such order and conditions as he may deem to be in the child's interest; upon proof that such order has not been obeyed or that such conditions have not been fulfilled, the judge shall then pronounce final sentence and order the same to be carried out.

Every prosecution for an offence contemplated in this subsection shall be prescribed by one year. In the districts where there is a Social Welfare Court, such prosecutions shall be heard by a judge of such court and, in the other districts, by a judge of the Provincial Court having jurisdiction at the place of the offence.

R. S. 1964, c. 220, s. 39; 1965 (1st sess.), c. 17, s. 2.

DIVISION VIII

FINAL DISCHARGE OF CHILDREN

46. *The Minister may, when he deems it in the interest of a child, recommend to the Lieutenant-Governor his final discharge from the school.*

The Lieutenant-Governor may, in his discretion grant such discharge to any child admitted to a school.

R. S. 1964, c. 220, s. 40.

47. *When a child is finally discharged, notice thereof shall be given to the director of the school and the latter shall notify the father, mother, tutor or other person bound to take care of the child of the day, hour and place of such discharge.*

The person to whom such notice is given is bound to go to the place and at the time indicated in the notice to take charge of the child; if he refuses or neglects to do so without valid excuse he is liable, on summary proceeding, to a fine not exceeding fifty dollars or to imprisonment not exceeding two months, besides the costs.

In the districts where there is a Social Welfare Court, such prosecutions shall be heard by a judge of such court.

R. S. 1964, c. 220, s. 41.

DIVISION IX

MISCELLANEOUS PROVISIONS

48. *The programmes of study in every youth protection school shall be prepared and carried out under the authority and supervision of the Ministère de l'éducation.*

R. S. 1964, c. 220, s. 42; 1977, c. 5, s. 14.

49. *The Gouvernement, on the recommendation of the Minister, shall fix each year the price to be paid, per day, to every school for the custody of each child entrusted to it.*

R. S. 1964, c. 220, s. 43.

50. *The Minister may make general regulations for the proper administration of the schools; they shall become obligatory as soon as they are brought to the notice of the directors of such schools.*

R. S. 1964, c. 220, s. 44.

51. *The Minister shall act, during the time of their placement, as tutor exofficio to the children entrusted to a school or public charitable institution under this act and who have not been provided with tutors under the Civil Code.*

The Minister's functions as tutor exofficio shall cease of right upon his being served with a judgment appointing a tutor to the child.

The Minister may entrust, in whole or in part, to functionaries of his department or to social organizations, the performance of acts relating to the administration of the property of a child whose tutor he is exofficio.

R. S. 1964, c. 220, s. 45.

52. *Nothing done in the carrying out of this act shall be invalid by reason of the inobservance of any contemplated formality.*

R. S. 1964, c. 220, s. 46.

53. *Notices may be served by mail or in the manner provided by the Code of Civil Procedure.*

R. S. 1964, c. 220, s. 47.

54. *The Minister of Social Affairs shall act exofficio as Provincial Secretary, as regards the duties and jurisdictions assigned to the latter by section 21 of the Juvenile Delinquents Act (Revised Statutes of Canada, 1970, chapter J-3).*

R. S. 1964, c. 220, s. 48; 1970, c. 42, s. 17.

55. *In cases of urgency and absolute necessity, the Minister may assist, in such manner as he may deem expedient, in securing the custody, maintenance and care of children entrusted to a school or public charitable institution, as well as to social organizations concerned with the welfare and protection of youth.*

R. S. 1964, c. 220, s. 49.

56. *The Minister of Justice shall have charge of the application of Division IV.*

1974, c. 59, s. 2.

