

chapter P-34.1

YOUTH PROTECTION ACT

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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;

(d) “body” means any body established under a law of Québec dealing, in particular, with the defence of the rights, the promotion of the interests and the improvement of the living conditions of children, any educational body and any childcare establishment;

(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 childcare provider within the meaning of the Act respecting educational childcare (chapter S-4.1.1);

(e) “parents” means the father and the mother of a child or, where applicable, any other person acting as the person having parental authority;

(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(h) *(subparagraph repealed)*.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” 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.

2. The purpose of this Act is to protect children whose security or development is or may be considered to be in danger.

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

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

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 AND CHILDREN'S RIGHTS

1984, c. 4, s. 4.

2.2. The primary responsibility for the care, maintenance and education of a child and for ensuring his supervision rests with his parents.

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

2.3. Any intervention in respect of a child and the child's parents under this Act

(a) must be designed to put an end to and prevent the recurrence of a situation in which the security or the development of the child is in danger; and

(b) must, if the circumstances are appropriate, favour the means that allow the child and the child's parents to take an active part in making decisions and choosing measures that concern them.

Every person, body or institution having responsibilities under this Act towards a child and the child's parents must encourage the participation of the child and the parents, and the involvement of the community.

The parents must, whenever possible, take an active part in the application of 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.

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

2.4. Every person having responsibilities towards a child under this Act, and every person called upon to make decisions with respect to a child under this Act shall, in their interventions, take into account the necessity

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

(2) of ensuring that any information or explanation that must be furnished to a child under this Act is presented in language appropriate to the child's age and understanding;

(3) of ensuring that the parents have understood the information or explanations that must be furnished to them under this Act;

(4) 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; and

(5) of opting for measures, in respect of the child and the child's parents, which allow action to be taken diligently to ensure the child's protection, considering that a child's perception of time differs from that of adults, and which take into consideration the following factors:

(a) the proximity of the chosen resource;

(b) the characteristics of cultural communities;

(c) the characteristics of Native communities.

1994, c. 35, s. 3.

3. 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 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.

4. Every decision made under this Act must aim at keeping the child in the family environment.

If, in the interest of the child, it is not possible to keep the child in the family environment, the decision must aim at ensuring that the child benefits, insofar as possible with the persons most important to the child, in particular the grandparents or other members of the extended family, from continuity of care, stable relationships and stable living conditions corresponding to the child's needs and age and as nearly similar to those of a normal family environment as possible. Moreover, the parents' involvement must always be fostered, with a view to encouraging and helping them to exercise their parental responsibilities.

If, in the interest of the child, returning the child to the family is impossible, the decision must aim at ensuring 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. 4; 1984, c. 4, s. 5; 2006, c. 34, s. 4.

5. Persons having responsibilities regarding 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.

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.

7. Before a child is transferred from one foster family or facility maintained by an institution operating a rehabilitation centre to another foster family or facility maintained by another institution operating a rehabilitation centre, 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.

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

8. The child and the parents are entitled to receive, with continuity and in a personalized manner, 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.

The child is also entitled to receive, on the same conditions, appropriate educational services from an educational body.

Furthermore, the child and the parents are entitled to be supported and assisted by a person of their choice if they wish to obtain information or when meeting the director or any person the director authorizes.

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.

9. Any child placed in a foster family or by an institution which operates a rehabilitation centre or a hospital centre has the right to communicate in all confidentiality with his advocate, the director who has taken charge of his situations, the Commission and the judges and clerks of the tribunal.

He may also communicate in all confidentiality with his parents, brothers and sisters, unless the tribunal decides otherwise.

He may also communicate in all confidentiality with any other person unless the tribunal decides otherwise or the executive director of the institution operating the rehabilitation centre, the hospital centre or the person he authorizes in writing considers it to be in the best interests of the child to prevent him from communicating with that person. The decision of the executive director must give reasons, be rendered in writing and be given to the child and, whenever possible, to the child's parents.

The child or his parents may refer to the tribunal any decision of the executive director preventing him from communicating with any person. The application is heard and decided by preference.

The tribunal shall confirm or quash the decision of the executive director. It may, in addition, order the executive director to take certain measures relating to the right of the child to communicate thenceforth with the person contemplated in the decision of the executive director 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).

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, and the placement in an intensive supervision unit provided for in section 11.1.1 of this Act may never be used as disciplinary measures.

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.

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.

The placement must end as soon as the grounds for it no longer exist. In the case of an immediate protective measure, the placement may not exceed the period provided for in section 46.

The placement must be based on a decision of the executive director of the institution or the person the executive director authorizes in writing, and must respect the conditions prescribed by regulation; a detailed report of the placement must be entered in the child's record, mentioning the grounds for it and the duration. The information contained in the regulation must be given and explained to both the child, if the child 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. The application is heard and decided by preference.

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

11.2. Any information collected under this Act concerning a child or his parents that would allow their identification is confidential and may not be disclosed by anyone except to the extent provided for in Chapter IV.1 or, if the information concerns the adoption of a child, to the extent provided for in Chapter IV.0.1.

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

11.2.1. Within the framework of this Act, no person may publish or broadcast information allowing a child or the child's parents to be identified, unless the tribunal so orders or the publication or broadcast is necessary for the purposes of this Act or a regulation made under it.

Furthermore, in special cases, the tribunal may prohibit or restrict the publication or broadcast of information on a hearing of the tribunal, on the conditions it prescribes.

2006, c. 34, s. 9.

11.3. Sections 7 to 10 apply also to any child who has committed an offence against an Act or a regulation in force in Québec.

1984, c. 4, s. 9.

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, 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.

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. Notwithstanding section 19 of the Act respecting health services and social services (chapter S-4.2) and section 7 of the Act respecting health services and social services for Cree Native persons (chapter S-5), 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.

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

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.

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.

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

28. *(Repealed).*

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.

29. *(Repealed).*

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

30. *(Repealed).*

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

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 be appointed by the board of directors of the institution on the recommendation of the executive director, after consultation with the agency, the bodies and the institutions operating a local community service centre or a rehabilitation centre in the territory served by the institution operating a child and youth protection centre. The director shall act under the direct authority of the executive director.

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.

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.

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;
- (i) to decide to file an application for an order for the disclosure of information under the second paragraph of section 72.5 or to disclose information under the second or third paragraph of section 72.6 or under section 72.7.

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;
- (b) a member of the personnel of an institution operating a rehabilitation centre for young persons with adjustment problems; or
- (c) a member of a Native community designated by the director within the scope of an agreement between an institution operating a child and youth protection centre and the Native community.

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 a decision regarding the directing of a child involves the application of voluntary measures, the director may decide personally to reach an agreement on the voluntary measures with only one of the parents in accordance with the second paragraph of section 52.1.

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.

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. Notwithstanding section 19 of the Act respecting health services and social services (chapter S-4.2), at the request of the director or a person acting under section 32 of this Act, an institution must disclose information contained in the record of the child, either of the child's parents or a person implicated in a report, if the information contained in the record reveals or confirms a situation related to the grounds alleged by the director which could justify accepting the report for evaluation or make it possible to decide whether the security or development of the child is in danger.

2006, c. 34, s. 11.

36. Notwithstanding section 19 of the Act respecting health services and social services (chapter S-4.2), if the director decides to act on a report regarding a child and if he deems it necessary to ensure the protection of the child, the director or any person acting under section 32 of this Act may, at any reasonable time or at any time during an emergency, enter a facility maintained by an institution to examine the record kept on the child and make copies of it.

The institution must forward a copy of the record to the director, on request.

The director or any person acting under section 32 may also, with the authorization of the tribunal, examine on the premises the record kept on the parents or a person implicated in a report and that is necessary to assess the situation of the child.

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.

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 or 36, identify himself and produce a certificate of his capacity.

1986, c. 95, s. 251.

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. Should the director or the tribunal decide that the security or the development of the child is no longer in danger, the director must keep the information in the record for five years after that decision or until the child reaches 18 years of age, whichever is shorter.

The tribunal may, on exceptional grounds and for the period it determines, extend the period for which the information in the record must be kept.

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

DIVISION III

NATIVE COMMUNITIES

2001, c. 33, s. 1.

37.5. In order to better adapt the application of this Act to the realities of Native life, the Government is authorized, subject to the applicable legislative provisions, to enter into an agreement with a first nation represented by all the band councils of the communities making up that nation, with a Native 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 Native 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 be compatible with the general principles stated in this Act and with children's rights thereunder, 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 are in conformity 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).

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 in session, within 15 days of resumption. It shall also be published in the *Gazette officielle du Québec*.

2001, c. 33, s. 1.

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 abandoned, neglected, subjected to psychological ill-treatment 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 provide the child with schooling; 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 conjugal or domestic violence;

(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, 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, 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

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) he is of school age and does not attend school, or is frequently absent without reason;

(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.

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.

38.3. 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* 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.

The first and second paragraphs apply even to those persons who are bound by professional secrecy, except to an advocate who, in the practice of his profession, receives information concerning a situation described in section 38 or 38.1.

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.

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. *(Repealed).*

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

41. *(Repealed).*

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

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 or 42.

1977, c. 20, s. 43.

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

1977, c. 20, s. 44.

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.

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

45.1. If the director decides not to accept a report, he must notify the person who reported the situation.

2006, c. 34, s. 21; 2016, c. 12, s. 38

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 that immediate protective measures be extended and a child 14 years of age or over or the child's parents object, the director must submit the case to the tribunal to obtain an order attesting that the extension is necessary. Such an order may be issued by the clerk if the judge is absent or unable to act and if a delay could cause serious harm to the child. The decision of the tribunal or the clerk may not have effect for more than five working days.

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).

47.1. If a child 14 years of age or over and the child's parents do not object to the extension of immediate protective measures, the director may propose the application of a provisional agreement until he determines whether the security or development of the child is in danger and, if applicable, enters into an agreement on voluntary measures or refers the matter to the tribunal.

However, such an agreement may not be renewed and may not cover more than 30 days, including the 10-day period provided for in section 52.

2006, c. 34, s. 23.

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.

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 the application of 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.

52. The director, when proposing to a child and to the child's parents the application of voluntary measures, must, before reaching an agreement with them, inform them of the right of a child 14 years of age or over and of a child's parents to refuse the application of voluntary measures. However, where the parents of a child under 14 years of age accept the application of voluntary measures, the director must encourage the child to adhere to the agreement.

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.

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 two years.

However, if the last agreement containing a foster care measure referred to in subparagraph *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.

53.0.1. If one or more agreements on voluntary measures under section 53 include a foster care measure provided for in subparagraph *j* of the first paragraph of section 54, the total period of the placement may not exceed

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

on the date the first agreement containing a foster care measure is entered into.

If the security or development of the child is still in danger at the expiry of the period of foster care provided for in the first paragraph, the director shall refer the matter to the tribunal.

1994, c. 35, s. 32; 2006, c. 34, s. 28.

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;

(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.

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.

57. On the conditions prescribed by regulation, the director shall review the case of each child whose situation he has taken in charge. 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.

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;
- (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 of foster care 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

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

57.3. 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

COMPULSORY FOSTER CARE

62. Where the tribunal orders the compulsory foster care of a child, it shall require the director to designate an institution, to which the child may be entrusted, that operates a hospital centre or a rehabilitation centre or works in conjunction with foster families, and to see that foster care is provided under adequate conditions.

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

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

If the tribunal orders the compulsory foster care of a child, the director may authorize the child to stay with his father or mother, a person who is important to the child, in particular the grandparents or other members of the extended family, or a foster family for periods of not more than 15 days, provided those periods are part of an 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, a person who is important to the child or a foster family for extended periods during the last 60 days of the period of compulsory foster care.

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.

63. If a child is placed in an intensive supervision unit maintained by an institution operating a rehabilitation centre in accordance with section 11.1.1, the executive director of the institution must immediately send the Commission a notice specifying the child's name and the placement start date as well as the decision or order of the tribunal if the executive director's decision was referred to the tribunal.

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

64. Where a period of compulsory foster care terminates during a school year, the institution operating a rehabilitation centre must continue to provide the child with foster care until the end of the school year if the child, being 14 years of age or over, consents to it; when the child is less than 14 years of age, foster care shall continue with the consent of the parents and the director.

Where a period of compulsory foster care ends during a school year, the foster family may continue to provide foster care to the child on the same conditions.

An order for foster care ceases to have effect when the person to which it applies reaches the age of 18 years. However, foster care 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 continue to provide foster care to a person having reached the age of 18 years if the person consents to it and if the person's condition does not allow his return to or reinsertion in his home environment. Foster care shall continue 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.

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.

DIVISION V

PARENTS' CONTRIBUTIONS

65. When a child is provided with foster care under this Act, the parents are subject to the contribution fixed by regulation under section 159 of the Act respecting health services and social services for Cree Native persons (chapter S-5) or under section 512 of the Act respecting health services and social services (chapter S-4.2).

1977, c. 20, s. 65; 1992, c. 21, s. 230; 1994, c. 23, s. 23.

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 provided with foster care in a place 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.

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.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 protect the interest of the child and ensure 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.

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.

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.

Not in force

DIVISION VII.1

SPECIAL PROVISIONS

2017, c. 12, s. 61

Not in force

71.3.1. The director shall consider Aboriginal 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.

2017, c. 12, s. 61

Not in force

71.3.2. From the time the child becomes the subject of a report and until the end of the director's intervention, no Aboriginal 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.

2017, c. 12, s. 61

Not in force

71.3.3. 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 Aboriginal customary tutorship to or adoption of a child whose situation is taken in charge by the director of youth protection.

2017, c. 12, s. 61

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

Not in force

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 entering into an agreement under 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, child and persons important to the child wishing to enter into an agreement referred to in article 579 of the Civil Code before the order of placement is made.

Where such an agreement is entered into and only concerns the exchange of information, the director shall facilitate the exchange, at the request of the parties to the agreement, 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

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.

Not in force

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

Not in force

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

Not in force

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

Not in force

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

Not in force

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

Not in force

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 Regulation respecting the selection of foreign nationals (chapter I-0.2, r. 4).

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

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.

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

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

2004, c. 3, s. 22.

71.13. The Minister may, for the purposes of research into family and medical antecedents or reunions, obtain information from public bodies to locate the parties concerned.

2004, c. 3, s. 22.

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

Not in force

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

2017, c. 12, s. 72

Not in force

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

Not in force

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

Not in force

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

Not in force

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

Not in force

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 appeal to the court by application within 30 days after receiving the decision to be appealed. 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 appeal 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).

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 authorization of the child himself if he is 14 years of age or over, where the information relates to him, or with the authorization 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 authorization 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.

72.6. Notwithstanding the provisions of section 72.5, confidential information may be disclosed without the authorization of the person to whom it relates or an order of the tribunal to any person, body or institution having responsibilities under this Act and to every court of justice called upon, under this Act, to make decisions respecting a child, where the disclosure is necessary for the purposes of this Act.

Notwithstanding the provisions of 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 authorization of the person to whom it relates or an order of the tribunal,

(1) to the members of the personnel of the Ministère de la Justice to whom the Minister of Justice has delegated the exercise of his powers under the Act respecting assistance and compensation for victims of crime (1993, chapter 54), where the disclosure is necessary for the purposes of the said Act in respect of a claim relating to a child whose situation has been brought to the attention of 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 a provision of this Act.

Furthermore, notwithstanding section 72.5, the director may disclose confidential information to a person who acts as director outside of Québec, without the consent of the person concerned or an order from the tribunal, if there is reasonable cause to believe that the security or development of a child is or may be considered to be in danger.

A disclosure of information under this section 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.

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*, if the physical or mental health of the child is concerned, *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, report 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. Upon deciding it is appropriate to do so, the director or the Commission may also provide information to an institution or a body exercising a responsibility in respect of the child concerned.

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 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.

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.

The time periods prescribed in sections 37.1 to 37.4 apply to the information entered in the register.

2006, c. 34, s. 39.

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 benefit under the Act respecting family benefits (chapter P-19.1) for the purposes of section 323 of chapter 1 of the statutes of 2005, a tax credit for child assistance 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).

2006, c. 34, s. 39; 2007, c. 12, s. 308; 2015, c. 20, s. 61.

CHAPTER V

JUDICIAL INTERVENTION

DIVISION I

JURISDICTION

§ 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. The director shall refer the matter to the tribunal where the parents or the child are opposed to the application of an immediate protective measure.

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.

74.0.1. The tribunal may use any technological means at its disposal to hear and decide applications filed under sections 11.1.1, 11.2.1, 36, 47, 72.5, 76.1 and 79.

For the purpose of granting the authorizations provided for in sections 25, 35.2 and 35.3, the justice of the peace may also use any technological means available. The declaration under oath required under those provisions may be made orally, by telephone or using another mode of telecommunication, and it is deemed to be made under oath.

2006, c. 34, s. 42.

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 voluntary foster care by a foster family or an institution operating a rehabilitation centre;

(d) the decision of the director on review;

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

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.

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. If made by a person other than the child or his parents, the application, together with notice of the filing date, must be served on the parents, on the child if 14 years of age or over, on the director and on the advocates of the parties in one of the modes provided for in the Code of Civil Procedure (chapter C-25.01), not less than 10 days or more than 60 days before the hearing.

If the application made by a parent or a child, it must be served, along with the notice, on the director and on the advocates of the parties.

The notice need not be sent

(a) if all the parties are present before the tribunal and waive it;

(b) if the tribunal, in an emergency, prescribes a special manner of notifying the parties; or

(c) if the tribunal dispenses with service on exceptional grounds.

The tribunal may allow untimely service for exceptional reasons. It may also reduce the period for filing the application if it is in the interest of the child and if doing so does not infringe on the parties' right to be heard.

If the application is made with respect to an encroachment of rights, service must be made on the Commission.

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).

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.

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.

76.2. After the filing of the application and, if applicable, the hearing on the provisional measures, the tribunal may order the holding of a pre-hearing conference if it considers it useful or if it is requested by one of the parties. Whenever possible, the conference is presided over by the judge assigned to hear the case.

The purpose of the pre-hearing conference is to rule on appropriate means of simplifying and shortening the hearing, including the advisability of amending the application, obtaining admissions, defining the

questions of law and fact at issue, providing a list of witnesses and providing access to the originals of the documents the parties intend to file at the hearing.

Agreements and decisions made at the conference are recorded in minutes signed by the attorneys or the parties not represented by an attorney, and countersigned by the judge who presided over the conference. The agreements and decisions govern the hearing, unless the tribunal permits a departure from them in order to prevent an injustice.

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

76.3. At any time after the filing of the application, the parties to the proceedings may acknowledge the facts showing that the security or development of the child is in danger and submit a draft agreement on measures to put an end to the situation to the tribunal.

The tribunal verifies whether the parties gave their consent in a free and enlightened manner and, if warranted, hears them together, or hears them separately but in the presence of the other parties' attorneys.

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

76.4. After establishing that the security or development of the child is in danger and verifying that the measures proposed in the draft agreement respect the rights and interest of the child, the tribunal may order the implementation of those measures or any other measure it considers appropriate.

2006, c. 34, s. 46.

76.5. The clerk may accept an incidental application outside the presence of the parties if it need not be served, including one for a different mode of notification, for permission to give untimely notification or for a shorter period for filing the application.

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

77. The tribunal must itself hear all the evidence before reaching a decision.

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.

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

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

79. In application of section 76.1, the tribunal shall order the provisional compulsory foster care of a child by a foster family or an institution operating a rehabilitation centre if, after an assessment of the situation, it concludes that the child's remaining with or returning to his parents or to his residence is likely to cause him serious prejudice.

The tribunal shall without delay notify the parents of the child who is the subject of a measure carried out under this section.

No provisional compulsory foster care measure may exceed 30 days. However, where justified by the facts, the tribunal may order a single extension for a period of not over 30 days.

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.

80. Where the tribunal establishes that the interests of the child are opposed to those of his parents, it must see that an advocate is specifically assigned to counsel and represent the child and that he does not act, at the same time, as counsel or attorney for the parents.

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

81. The tribunal shall hear the persons concerned and the advocates representing them.

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 if a tutorship is concerned

For the requirements of the hearing, the tribunal may grant any other person the status of party to the hearing if it considers it expedient 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.

A person who has information likely to enlighten the tribunal in the interest of the child may, on request, be heard by the tribunal and be assisted by an advocate.

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).

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. In no case may images be recorded.

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 and must obey the orders of the tribunal, under pain of contempt of tribunal.

No person admitted to a hearing may make a 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.

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.

83. (*Repealed*).

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.

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 person 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.

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 three working days before the hearing, unless the tribunal grants an exemption from this obligation.

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).

85. Article 9, the first and second paragraphs of article 19, articles 24, 25, 49, 51 to 53, 55, 57, the first paragraph of article 58, articles 59 to 62, the second and third paragraphs of article 68, the first, second and fourth paragraphs of article 76, articles 77, 79, 83, 113, 133, 134, 161 to 165, the first paragraph of article 191, articles 265 to 278, the first, second and fourth paragraphs of article 279, articles 280 to 283, 285, 288, 289, 292, 296, 299, the first paragraph of article 301, the second paragraph of article 336 and articles 394 and 497 of the Code of Civil Procedure (chapter C-25.01) apply before the tribunal to the extent that they are not inconsistent with the provisions of this Act.

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.

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.

85.5. 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 analysis of the child's social situation and the recommendations made.

The director may, at his discretion, or must, if the tribunal so requires, attach to it a psychological or medical assessment of the child and of the members of his family or any other expert opinion that may be useful.

The cost of such studies, assessments or expert opinions shall be at the expense of the institution operating the child and youth protection centre.

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.

87. The parents of the child or the child himself, if he is 14 years of age or over, may refuse to submit to a study, an assessment or any other expert opinion contemplated in section 86. In the case of refusal by the child, the study, assessment or expert opinion shall not take place and the refusal by the child and, as the case may be, the refusal by the parents shall be recorded in a report sent to the tribunal. When the child, if he is 14 years of age or over, consents to submit to such a study, assessment or expert opinion, it shall take place although the parents refuse to submit to it; in such a case, the refusal by the parents shall be recorded in a report sent to the tribunal.

However, the parents and the child shall not refuse to submit to such study, assessment or expert opinion when it is required with regard to a situation contemplated in subparagraphs *d* and *e* of the second paragraph of section 38.

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.

88. The contents of a study, assessment or expert opinion contemplated in section 86 must be sent to the parties, who may dispute the data or the conclusions contained in such study, assessment or expert opinion.

However, where the author of the study, assessment or expert opinion believes that the contents or part of the contents should not be communicated to the child, the tribunal may, by exception, prohibit the transmission of it. The tribunal must then see that the child is represented by an advocate who may examine the study, assessment or expert opinion and dispute it.

Where the study, assessment or expert opinion is disputed, the tribunal may require the director to procure a second one. The tribunal shall determine who must pay for such second study, assessment or opinion.

1977, c. 20, s. 88; 1988, c. 21, s. 119; 1989, c. 53, s. 11; 2006, c. 34, s. 59.

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.

§ 2. — *Decision*

90. A decision or order of the tribunal must be rendered as soon as possible. It may be rendered verbally if the reasons for doing so are given. With the exception of a decision relating to provisional measures, a decision or an order must be rendered in writing not later than 60 days after being pronounced, barring exceptional circumstances.

1977, c. 20, s. 90; 1988, c. 21, s. 119; 1989, c. 53, s. 11; 2006, c. 34, s. 61.

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;

(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 place where the child may be provided with foster care and state how long the child is to stay at each of those places.

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

91.1. If the tribunal orders a foster care measure under subparagraph *j* of the first paragraph of section 91, the total period of the foster care may not exceed

(a) 12 months if the child is under two years of age on the date the order is made,

(b) 18 months if the child is from two to five years of age on the date the order is made, or

(c) 24 months if the child is six years of age or over on the date the order is made.

When determining the duration of foster care, the tribunal must take into account the duration of any foster care measure applied to the same situation in an agreement on voluntary measures referred to in subparagraph *j* of the first paragraph of section 54, as well as the duration of any prior foster care measure it ordered under the first paragraph. It may also take into account any prior period during which the child was placed or provided with foster care under this Act.

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 aimed at ensuring continuity of care, stable relationships and stable living conditions corresponding to the child's needs and age on a permanent basis.

However, the tribunal may disregard the periods specified in the first paragraph if it is expected that the child will be returned to his family in the short term, if the interest of the child requires it or for serious reasons, such as failure to provide the services agreed upon.

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 aimed at ensuring 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.

91.2. The periods specified in the first paragraph of section 91.1 do not apply if the tribunal orders a foster care measure under subparagraph *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.

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 executory 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.

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 11.2 and 11.2.1 of this Act are complied with.

2015, c. 26, s. 30.

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) the application must be served on the parties at least 10 days before it is filed;
- (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.

However, if the tribunal finds that the notice has not been served, it shall adjourn the hearing and order that the notice be served on the conditions and in the manner it indicates.

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.

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.

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 record of the tribunal kept under sections 70.1 to 70.6.

However, no person 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.

96.1. A person authorized to take cognizance of a decision, order 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.

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.

1977, c. 20, s. 100; 1984, c. 4, s. 50; 1988, c. 21, s. 66; 1989, c. 53, s. 11.

101. The appeal may be brought by the child, his parents, the director, the Commission, 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).

102. The Court shall try the appeal on the transmission of the record and 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.

103. The appeal is brought by filing, at the office of the tribunal, a notice of appeal served on the respondent or on his advocate, within 30 days of the day the decision or the order was rendered.

1977, c. 20, s. 103; 1988, c. 21, s. 66; 1989, c. 53, s. 11.

104. The notice of appeal shall contain the description of the parties, the grounds for appeal, the conclusions sought, the name of the court that rendered the decision or the order and the date thereof.

1977, c. 20, s. 104.

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 tribunal who receives the notice of appeal shall transmit a copy of the notice of appeal and the original record of the case to the office of the Court with a list of the documents therein and a copy of the entries made in the register.

1977, c. 20, s. 106; 1988, c. 21, s. 66; 1989, c. 53, s. 11.

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 service on the respondent. The appellant shall then assume the costs of the appeal.

1977, c. 20, s. 109.

110. Any act of procedure required or authorized in this division shall be served in the manner provided for in the Code of Civil Procedure (chapter C-25.01).

1977, c. 20, s. 110; I.N. 2016-01-01 (NCCP).

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 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.

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 executory 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.

DIVISION III

APPEALS TO THE COURT OF APPEAL

115. An appeal lies to the Court of Appeal, with leave of that Court or 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.

116. The appeal is brought before the Court of Appeal sitting at Montreal or at Québec, according to the place where an appeal from a judgment in a civil matter would be instituted.

1977, c. 20, s. 116.

117. An application for leave to appeal shall be presented within 15 days of the date of judgment or within any other period, not exceeding 30 days, fixed by the Court of Appeal or a judge of that Court, either before or after the said period of 15 days has expired.

1977, c. 20, s. 117; 1999, c. 40, s. 226; I.N. 2016-01-01 (NCCP).

118. The application shall be accompanied with a copy of the judgment and a notice specifying the date of presentation of the application.

1977, c. 20, s. 118; I.N. 2016-01-01 (NCCP).

119. At least five days before the date of presentation, the application shall be served on the respondent or on his advocate and on the judge who rendered judgment.

1977, c. 20, s. 119; I.N. 2016-01-01 (NCCP).

120. Upon deciding the application for leave to appeal, the Court of Appeal shall decide the amount of the costs unless the appeal is authorized, in which case it shall award the costs only when judgment on the appeal is rendered.

1977, c. 20, s. 120; I.N. 2016-01-01 (NCCP).

121. If the application is granted, the appeal shall be brought within 15 days of the judgment authorizing it.

1977, c. 20, s. 121; I.N. 2016-01-01 (NCCP).

122. The appeal is brought by filing at the office of the Superior Court a notice of appeal accompanied with a certified copy of the judgment authorizing it and evidence of service thereof on the respondent or on his advocate.

1977, c. 20, s. 122.

123. Within 10 days following the date on which the notice of appeal is served, the appellant and the respondent shall file a representation statement at the Appeal Office.

1977, c. 20, s. 123; I.N. 2016-01-01 (NCCP).

124. Within 30 days following the filing of the notice of appeal, the appellant shall file at the Appeal Office 10 copies of a factum setting out his pretensions and serve two copies of such factum on the respondent or his advocate. Such factum shall contain the judgment appealed from and the notes filed by the judge.

1977, c. 20, s. 124.

125. The respondent shall, within 15 days of the filing at the Appeal Office of the factum of the appellant, file at the Office 10 copies of his own factum and serve two copies thereof on the appellant.

1977, c. 20, s. 125.

126. If the appellant does not file his factum within the period fixed, a judge of the Court of Appeal may, on motion, dismiss the appeal; if it is the respondent who is in default, the Court of Appeal may refuse to hear him.

1977, c. 20, s. 126; 1999, c. 40, s. 226.

127. The appellant shall file, except if exempted from it by the Court of Appeal or a judge of that court, the transcription of the evidence gathered before the Superior Court.

1977, c. 20, s. 127.

128. The Court of Appeal may make any order considered appropriate 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).

129. Sections 96 to 98, 104 to 110 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.

DIVISION IV

MISCELLANEOUS

130. (*Repealed*).

1977, c. 20, s. 130; 1988, c. 21, s. 119; 1989, c. 53, s. 11; 1994, c. 35, s. 60.

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 executory 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 executory 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.

131.1. *(Repealed).*

1982, c. 17, s. 66; 1994, c. 35, s. 67; 2004, c. 3, s. 23.

131.2. *(Repealed).*

1982, c. 17, s. 66; 2004, c. 3, s. 23.

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);*

(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) to determine the conditions in accordance with which a placement referred to in section 11.1.1 must be made.

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

133. *(Repealed).*

1977, c. 20, s. 133; 2017, c. 12, s. 83

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 37.5, 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;

(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 37.5 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.

135. Every person who contravenes any provision of the first paragraph of section 11.2.1 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.

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.

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, 134 to 136, 154 and 155. 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.

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.

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.