

YOUTH PROTECTION ACT
R.S.Q., chapter P-34.1
Updated to June 17, 2005

CHAPTER I
INTERPRETATION AND SCOPE

Definitions: 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 and any educational body;

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

(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(h) *(subparagraph repealed)*.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 “regional board” 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.

2. This Act applies to any child whose security or development is or may be considered to be in danger.

2.1. The alternative measures and guidance mechanism relating to children who have committed an offence against any Act or regulation of Canada are established in the alternative measures program authorized in accordance with the Young Offenders Act (Revised Statutes of Canada, 1985, chapter Y-1).

CHAPTER II
GENERAL PRINCIPLES AND CHILDREN'S RIGHTS

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

2.3. Any intervention in respect of a child and his parents must be designed to put an end to and prevent the recurrence of a situation in which the security or development of the child is in danger. For that purpose, any person, body or institution having responsibilities under this Act towards a child and his parents shall encourage the participation of 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.

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.

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.

4. Every decision made under this Act must contemplate the child's remaining with his family. If, in the interest of the child, his remaining with or returning to his family is impossible, the decision must contemplate his being provided with continuous care and stable conditions of life corresponding to his needs and his age and as nearly similar to those of a normal family environment as possible.

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.

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.

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. Information and preparation.

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

8. A child is entitled to receive adequate health services, social services and educational services, on all scientific, human and social levels, continuously and according to his personal requirements, taking into account the legislative and regulatory provisions governing the organization and operation of the institution or educational body providing such services and the human, material and financial resources at its disposal.

9. Any child placed in a foster family or by an institution which operates a rehabilitation 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 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. This motion 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.

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 regional board and to the institution operating the child and youth protection centre.

11. No child shall be placed in a house of detention within the meaning of the Act respecting correctional services (chapter S-4.01) or in a police station.

11.1. Any child 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.

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.

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.

**CHAPTER III
BODY AND PERSONS ENTRUSTED WITH YOUTH PROTECTION**

**DIVISION I
COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE**

12-22. *(Repealed)*.

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 Young Offenders Act (Revised Statutes of Canada, 1985, chapter Y-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 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.

23.1. 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.

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.

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 a sworn statement 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.

25.1. *(Repealed)*.

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.

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

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.

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

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.

28-30. *(Repealed)*.

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 regional board, 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.

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.

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.

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

(a) to determine the admissibility of the information regarding the situation of a child whose security or development is or may be considered to be in danger;

(b) to decide whether or not the security or the development of a child is in danger;

- (c) to decide on the direction of a child;
- (d) to review the situation of a child;
- (e) to decide to close the record;
- (f) to exercise tutorship;
- (g) to receive the general consents required for adoption;
- (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 paragraph of section 72.6 or under section 72.7.

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.

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.

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

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.

33.3. The director has the powers of a "provincial director" under the Young Offenders Act (Revised Statutes of Canada, 1985, chapter Y-1).

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

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.

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

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 a sworn statement 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.

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 a sworn statement 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.

36. 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), where the director decides to act on a situation that has been brought to his attention regarding a child who is the victim of sexual abuse or subject to physical illtreatment or whose physical health is threatened by the lack of appropriate care, he and any person acting under section 32 or 33, may, at any reasonable time or any time in an emergency, enter a facility maintained by an institution to examine on the premises the record kept on the child and make copies thereof.

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

In addition, where the director has decided to act on the situation of a child brought to his attention in a case referred to in the first paragraph, the tribunal may, on request, authorize in writing the director or any person acting under section 32 to require that the director of professional services of an institution or any person designated by the executive director of the institution communicate any information of a medical or social nature that is contained in the record of a person, other than the child, referred to in the information brought to the attention of the director, and that is necessary to assess the situation of the child. The tribunal may grant the authorization, subject to the conditions it specifies, if it is satisfied on the basis of a sworn statement by the director or the person acting under section 32 that there is reasonable cause to believe that

(1) the life or security of the child concerned or of another child is threatened, and

(2) it is necessary, for the purpose of assessing the child's situation, to have access to the information contained in the record of that person.

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.

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 regional board, to the Minister of Health and Social Services and, upon request, to the child and his parents.

37.1. The director shall record the information as soon as it is brought to his attention that the security or the development of a child is or may be considered to be in danger. The information may be kept for not more than 6 months where the director determines that the situation does not warrant his acting upon it.

37.2. The information brought to the attention of the director may be kept for not more than one year where the director finds that, after keeping it, the security or the development of a child is not in danger.

37.3. The information must be kept for one year from the final decision of the tribunal quashing the director's decision to the effect that the security or the development of a child is in danger.

37.4. Where the director or the tribunal decides that the security or the development of a child is in danger, the information must be kept for five years from the final decision or until the child has reached eighteen years of age, whichever is shorter.

DIVISION III NATIVE COMMUNITIES

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*.

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 where

(a) his parents are deceased or do not, in fact, assume responsibility for his care, maintenance or education;

(b) his mental or affective development is threatened by the lack of appropriate care or by the isolation in which he is maintained or by serious and continuous emotional rejection by his parents;

- (c) his physical health is threatened by the lack of appropriate care;
- (d) he is deprived of the material conditions of life appropriate to his needs and to the resources of his parents or of the persons having custody of him;
- (e) he is in the custody of a person whose behaviour or way of life creates a risk of moral or physical danger for the child;
- (f) he is forced or induced to beg, to do work disproportionate to his capacity or to perform for the public in a manner that is unacceptable for his age;
- (g) he is the victim of sexual abuse or he is subject to physical ill-treatment through violence or neglect;
- (h) he has serious behavioural disturbances and his parents fail to take the measures necessary to put an end to the situation in which the development or security of their child is in danger or the remedial measures taken by them fail.

However, the security or development of a child whose parents are deceased is not considered to be in danger if a person standing *in loco parentis* has, in fact, assumed responsibility for the child's care, maintenance and education, taking the child's needs into account.

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.

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 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 subparagraph *g* of the first 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, d, e, f* or *h* of the first 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.

40. *(Repealed)*.

41. The director must notify the Commission in the case of a child who is the victim of sexual assault or who is subject to physical ill-treatment through violence or neglect.

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.

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

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.

DIVISION II

45. Any information 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, who shall determine if it is admissible and whether or not urgent measures are required.

46. The director may apply the following, as urgent 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 a foster family, to an appropriate body or to any other person without delay;

(c) *(subparagraph repealed)*.

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

47. The child must be consulted about the application of urgent measures; his parents must also be consulted whenever possible.

Where the parents or the child object to the application of urgent measures, the director may compel their consent. However, the director must submit the case to the tribunal with the least possible delay. The director shall never apply urgent measures for more than 24 hours without an order of the tribunal attesting to their necessity. Such order may be rendered by the clerk when the judge is absent or unable to act and a delay might cause serious harm to the child. The decision of the tribunal or of the clerk shall have effect for not more than five working days.

When the 24-hour period ends on a Saturday or on a non-judicial day, and the judge and the clerk are absent or unable to act and the interruption is likely to cause serious harm to the child, the director may, without an order, prolong the application of urgent measures, which shall then terminate on the next following judicial day.

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 urgent 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.

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).

DIVISION III ASSESSING THE SITUATION AND DIRECTING THE CHILD

49. If the director considers admissible information 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.

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.

The director must, in addition, inform the child and the child's parents of the services and resources available in their community and the conditions of access to those services and resources. He may, if they consent, direct them to the institutions, bodies or persons best suited to assist them. For that purpose, he may, where applicable, give them advice for the selection of persons or bodies that may accompany and assist them in the action they undertake.

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, the director shall propose the application of voluntary measures or refer the situation to the tribunal. Power of the director. The director, if he considers it appropriate, 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.

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.

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.

53. The agreement on voluntary measures must be recorded in a writing. The term of the agreement shall not exceed one year.

The director may, however, reach a new agreement if he believes, in light of the child's current situation, that the new agreement is likely within a reasonable time to put an end to the situation in which the security or development of the child is in danger. A new agreement shall not be renewed and its term shall not exceed one year.

53.0.1. Notwithstanding the second paragraph of section 53, the term of a new agreement may not exceed six months if it contains a measure for the voluntary foster care of the child in a foster family or in an institution operating a rehabilitation centre. The new agreement may be renewed once for a period not exceeding six months if, on the date of the renewal, the child has reached 14 years of age.

However, where a new agreement containing a measure for voluntary foster care ends during the school year, the agreement may be extended until the end of the school year if the child is 14 years of age or over and consents to the extension; if the child is under 14 years of age, the new agreement may be extended with the agreement of the child's parents and of the director.

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

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.

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 place of learning other than a school and that the child undertake to do so.

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.

55. Every institution and every educational body must, by all available means, contribute to the implementation of the voluntary measures. The same applies to every person and to every other body that agrees to apply such measures.

56. *(Repealed)*.

57. The director shall periodically review the case of every child whose situation he has taken in charge. He shall, where applicable, satisfy himself that every measure designed to ensure the child's return to his parents is taken, if such a return is in his interest, or ensure that the child has living conditions appropriate to his needs and his age.

57.1. 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.

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) file an application to be named tutor or cause any person he recommends to be named tutor of the child;
- (f) act with a view to causing the child to be adopted;
- (g) put an end to the intervention.

When he puts an end to an intervention, the director must inform the child and the child's parents of the services and resources available in their community and the conditions of access to those services and resources. He may, if they consent, direct them to the institutions, bodies or persons best suited to assist them. For that purpose, he may, where applicable, give them advice for the selection of the persons or bodies that may accompany and assist them in the action they undertake.

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.

58-61. *(Repealed)*.

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 operating a rehabilitation centre or a foster family to which the child may be entrusted, 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.

63. The director entrusted with the execution of a compulsory foster care measure must send to the Commission, without delay, a notice indicating the name of the child, the date on which compulsory foster care begins and the place where it is provided.

The director must send a second notice to the Commission three months after compulsory foster care has begun.

When it establishes that compulsory foster care has been provided for at least three months, the Commission may depute a person to meet with the child or his parents, as well as the director entrusted with the case.

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.

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).

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.

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.

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.

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.

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.

DIVISION VII ADOPTION

71-72. *(Repealed).*

72.1. The director, if he considers that adoption is the measure most likely to ensure the respect of children's rights, must take all reasonable means to facilitate it, in particular,

- (a) by studying applications for adoption as the need arises;
- (b) by receiving the general consent required for adoption;
- (c) by taking charge of the children entrusted to him for adoption;
- (d) where necessary, by causing the child to be judicially declared eligible for adoption;
- e) by seeing to the placement of the child.

72.1.1. The Minister of Health and Social Services shall advise adopters and certified bodies in order to facilitate the steps taken by them with a view to the adoption of a child domiciled outside Québec, particularly by informing them of the services available to them.

The Minister may also, at the request of the adopter, take the steps in his place.

72.2. The Minister of Health and Social Services may, according to law, enter into an agreement with another government or with any of its departments or agencies in matters relating to the adoption of children domiciled outside Québec.

72.3. The psychosocial assessment of a person wishing to adopt a child domiciled outside Québec shall be made by the director of youth protection. 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 by judicial decision outside Québec, the assessment may be made, at the expense of the adopter, by a member of the Ordre professionnel des psychologues du Québec or the Ordre professionnel des travailleurs sociaux 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 on the basis of criteria agreed between the two professional orders and the directors of youth protection. A list of the places where the criteria serving as the basis of assessment are available shall be published in the *Gazette officielle du Québec*.

72.3.1. The director shall receive and study, as the need arises, applications for adoption of children domiciled outside Québec. Where a child is to be placed in Québec, the Minister shall take charge of him and see to his placement. In all cases, he shall intervene in accordance with the conditions and modalities prescribed by regulation.

In case of urgency or of serious difficulty, the court or any person acting in the interest of the child may refer the matter of the situation of a child contemplated by a motion for recognition of a foreign adoption judgment to the director of youth protection. The director of youth protection shall take charge of the situation of the child and see that the necessary measures provided by law for the protection of the child are carried out.

72.3.2. Where the adopter elects to take the steps himself with a view to adoption of a child domiciled outside Québec, pursuant to article 564 of the Civil Code, he shall consult the Minister; the Minister shall verify that, in the light of the information available to him, the planned procedure contains no irregularities and, where necessary, he shall consult the competent authorities in Québec or in the State of domicile of the child.

72.3.3. The Minister may, subject to the conditions prescribed by order published in the *Gazette officielle du Québec*, and subject to any other conditions he considers necessary to ensure compliance with the provisions respecting adoption of a child domiciled outside Québec, grant, upon application, permanent or temporary certification to an organization whose mission is to defend children's rights, promote their interests and improve their living conditions, so that it may take the steps with a view to adoption on behalf of the adopter.

72.3.4. The Minister may suspend or revoke certification if the certified organization fails to comply with its obligations.

72.3.5. Except in urgent cases, the Minister shall notify an organization in writing as prescribed by section 5 of the Act respecting administrative justice (chapter J-3) and allow the organization at least 10 days to present observations before refusing to grant it certification or suspending or revoking its certification. The decision of the Minister must be in writing and give reasons. A certified copy of the decision shall be transmitted to the organization.

72.3.6. Any organization whose certification has been suspended or revoked may appeal to the court by motion within 30 days from receipt by the organization of the decision appealed from. The decision may be overturned if the grounds of law or fact invoked therein are manifestly erroneous or the procedure followed is seriously irregular.

The motion shall be heard and decided by preference; no appeal lies from the decision.

The appeal does not suspend execution of the decision of the Minister, unless the court decides otherwise.

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

72.4. 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 in order to facilitate the adoption of a child.

CHAPTER IV.1 CONFIDENTIAL INFORMATION

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.

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 Attorney General, where the information is required for the prosecution of an offence under a provision of this Act.

A disclosure of information under this section must take place in a manner that will ensure its confidentiality.

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 *c* or *g* of the first 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 Attorney General or to a police force without it being necessary to obtain the consent of the person to whom it relates or an order of the tribunal.

The 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).

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 an imminent danger of death or serious bodily injury to a person or an identifiable group of persons.

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.

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.

CHAPTER V JUDICIAL INTERVENTION

DIVISION I JURISDICTION

§1. — Declaration and hearing

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 information exercises his responsibilities.

74. The director shall refer the matter to the tribunal where the parents or the child are opposed to the application of an urgent measure.

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.

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.

75. The tribunal takes cognizance by the filing of a sworn declaration 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 a declaration under this chapter.

76. If the declaration is made by a person other than the child or his parents, the declaration accompanied with a notice of the date fixed for proof and hearing must be served by registered or certified mail, not less than 10 days nor more than 60 days before proof and hearing, on the parents, on the child himself, if he is 14 years of age or over, on the director, on the Commission and on the advocates of the parties.

If the declaration is made by a parent or a child, service provided for in the preceding paragraph must be made on the director, on the Commission and on the advocates of the parties.

The sending of the notice is unnecessary,

- (a) when all the parties are present at the tribunal and they renounce the notice;
- b) when the tribunal, in urgent cases, prescribes a special manner of notifying the parties.

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.

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

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

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 thirty days.

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 the defense of the child and that he does not act, at the same time, as counsel or attorney for the parents.

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

The director, the Commission or the Attorney General may, *ex officio*, intervene at the hearing as if he or it were a party thereto; any other person may intervene therein if he demonstrates to the tribunal that he is acting in the interests of the child.

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 of the Commission and any other person authorized in writing by the Commission to be present thereat.

The tribunal must also admit any journalist applying therefor, unless it deems that his presence would cause prejudice to the child.

83. No person may publish or broadcast any information that would allow the identification of a child or his parents who are parties to proceedings or of a child who is a witness at proceedings under this Act, unless the publication or broadcast is ordered by the tribunal or is necessary for the purposes of this Act or any regulation thereunder.

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

84. The judge may exclude the child or any other person from the court-room when the information produced could, in the opinion of the judge, 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 in the court-room 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 court-room may remain in the court-room to represent him. apply before the tribunal to the extent that they are not inconsistent with the provisions of this Act.

85.1. Any child 14 years of age or over is competent to testify under oath unless, because of his physical or mental condition, he is not in a fit state to report the facts known to him. The same applies to any child under 14 years of age who, in the opinion of the tribunal, understands the meaning of an oath.

85.2. Any child under 14 years of age who, in the opinion of the tribunal, does not understand the meaning of an oath may be permitted to testify without that formality if the tribunal is of the opinion that he is able to report the facts known to him and understands that he has the duty to tell the truth.

Such testimony does not require corroboration.

85.3. Any child who is competent to testify may be compelled to do so. Dispensation. However, the tribunal may, by way of exception, dispense a child from testifying if it believes that testifying could be prejudicial to the mental or emotional development of the child.

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.

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 it is corroborated, to the satisfaction of the tribunal, by other evidence confirming its reliability.

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.

86. Before rendering a decision on the measures applicable, the tribunal shall request the director to make a study of the social situation of the child.

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.

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 examination contemplated in section 86. In the case of refusal by the child, the study, assessment or expert examination 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 examination, 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 examination when it is required with regard to a situation contemplated in paragraph *g* of section 38.

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 judge may, by exception, prohibit the transmission of it. The judge must then satisfy himself 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.

89. The judge must explain to the child the nature of the measures envisaged and the reasons justifying them; he must endeavour to obtain the consent of the child to such measures.

§2. — *Decision*

Decision in writing. 90. A decision or order of the tribunal must be rendered in writing, stating the reasons therefor.

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 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 certain 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 place of learning other than a school.

Powers of the tribunal. The tribunal may, in addition,

- (a) order a person to ensure that the child and his parents comply with the conditions imposed upon them and to report periodically to the director;
- (b) withdraw the exercise of certain rights of parental authority from the parents;
- (c) recommend that measures be taken to have a tutor appointed to the child;
- (d) make any other recommendation that it considers to be in the interests of the child.

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.

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.

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.

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 Commission, the parents, to the child himself, when he is 14 years of age or over, and to the advocates of the parties.

The original shall be filed in the record of the tribunal and shall be kept by the clerk.

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.

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.

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.

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, the Attorney General or a person authorized by him;

(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)*.

Person excluded. 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.

96.1. A person authorized to take cognizance of a record under the third paragraph of section 85.4 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.

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.

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.

§3. —

Repealed, 1984, c. 4, s. 49.

98.1. *(Repealed).*

DIVISION II APPEAL TO THE SUPERIOR COURT

99. For the purposes of this division, the word "Court" means the Superior Court.

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.

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 proof and hearing as if a party thereto. Notice of at least one clear day to the parties in appeal is required.

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.

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 thirty days of the day the decision or the order was rendered.

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.

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 a motion, orders otherwise.

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.

107. The appeal shall be heard and decided by preference.

108. The Court may from time to time adjourn the hearing of an appeal on such conditions as it may consider necessary.

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.

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.

111. The rules contained in sections 73 to 98 of this Act apply, with the necessary modifications, to this division.

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.

113. The Court may decide as to the costs of the appeal and as to the costs before the tribunal.

114. The judgment of the Court is executory in the same manner as if it had been rendered by the tribunal.

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.

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.

117. An application for leave to appeal shall be presented by motion 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.

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

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

120. Upon deciding on the motion 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.

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

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.

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

124. Within thirty days following the filing of the notice of appeal, the appellant shall file at the Appeal Office ten 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.

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

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.

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.

128. The Court of Appeal may make any order considered appropriate for the purposes of exercising its jurisdiction, *ex officio* or on motion of one of the parties.

129. Sections 96 to 98, 104 to 110 and 112 to 114 of this Act apply to this division with the necessary modifications.

DIVISION IV MISCELLANEOUS

130. *(Repealed)*.

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.

131.1. As soon as the order of placement is granted, the director gives to the adopter requesting it a summary of the child's antecedents.

He also gives to the parents requesting it a summary of the adopter's antecedents.

Every child is entitled to receive, on request, a summary of his own antecedents if he is 14 years of age or over.

131.2. Every summary must preserve the parents' or the adopter's anonymity, and must comply with the norms provided by regulation.

CHAPTER VI REGULATIONS AND DIRECTIVES

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 reviews 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) to prescribe the norms relating to the content of the summary of the child's and the adopter's antecedents;
- (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 72.3.1.

The Minister of Health and Social Services shall publish in the *Gazette officielle du Québec* a draft regulation with a notice that at the expiry of not less than 60 days following publication, it may be adopted by the Government with or without amendments.

133. A regulation made or approved by the Government under this act shall come into force on the date of its publication in the *Gazette officielle du Québec* or on any later date fixed therein.

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. Directives. These institutions are required to follow the directives.

CHAPTER VII PENAL PROVISIONS

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, 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.

Every person who contravenes this section is guilty of an offence and liable to a fine of \$250 to \$2 500.

135. Every person who contravenes any provision of the first paragraph of section 83 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.

135.1. Whether the placement or the adoption takes place in Québec or elsewhere and whether or not the child is domiciled in Québec, any person who

(a) gives or receives or agrees to give or receive, directly or indirectly, a payment or a benefit either 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, places, attempts to place or contributes to the placement of a child with a view to his adoption or contributes to his adoption, or

(c) contrary to this Act, adopts or attempts to adopt a child,

(d) *(paragraph repealed)*;

is guilty of an offence and liable to a fine of \$2 450 to \$6 075 in the case of a natural person or of \$6 075 to \$12 150 in the case of a legal person.

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 by a third person contrary to the procedure for adoption provided in articles 563 and 564 of the Civil Code and in sections 72.3 and 72.3.2 of this Act.

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.

135.1.3. Every person who contravenes any provision of section 135.1.1 or 135.1.2 is guilty of an offence and is liable to a fine of \$2 000 to \$5 000 in the case of a natural person or of \$5 000 to \$10 000 in the case of a legal person.

Where a legal person is guilty of an offence described in this section, every director or officer of the legal person who knowingly authorized or advised the perpetration of the offence is guilty of an offence and is liable to a fine of \$2 000 to \$5 000.

135.2. For each subsequent conviction, the amounts of the fines provided for in sections 134, 135 and 135.1 to 135.1.3 are doubled.

136. *(Repealed)*.

CHAPTER VIII TRANSITIONAL AND FINAL PROVISIONS

137. *(Omitted)*.

138. *(Omitted)*.

139. *(Amendment integrated into c. T-16, s. 110—French)*.

140. *(Amendment integrated into c. T-16, s. 114)*.

141. *(Amendment integrated into c. T-16, ss. 116-116.1)*.

142. *(Amendment integrated into c. T-16, s. 117)*.

143. *(Amendment integrated into c. T-16, s. 120)*.

144. *(Amendment integrated into c. T-16, s. 121.1)*.

145. *(Omitted)*.

146. *(Omitted)*.
147. *(Omitted)*.
148. *(Amendment integrated into c. C-68, s. 19)*.
149. *(Amendment integrated into c. E-8, s. 18)*.
150. *(Amendment integrated into c. A-7, s. 6)*.
151. *(Amendment integrated into c. A-7, s. 7)*.
152. *(Repealed)*.

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.

154. *(Omitted)*.

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.

156. The Minister of Justice is responsible for the application 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.

The Minister for Health, Social Services and Youth Protection exercises, under the authority of the Minister of Health and Social Services, the functions of the latter with respect to the application of this Act. O.C. 1513-98 of 98.12.15, (1999) 131 G.O. 2 (French), 77.

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.

158. *(Omitted)*.

159. *(This section ceased to have effect on 17 April 1987)*.