



NATIONAL ASSEMBLY

FIRST SESSION

FORTY-FIRST LEGISLATURE

Bill 99

(2017, chapter 18)

An Act to amend the Youth Protection Act and other provisions

Introduced 3 June 2016
Passed in principle 19 October 2016
Passed 4 October 2017
Assented to 5 October 2017

EXPLANATORY NOTES

The purpose of this Act is to revise various aspects of the Youth Protection Act.

First, the Act proposes that the rules applicable to children be harmonized regardless of which alternative living environment they are entrusted to under the Youth Protection Act. It also aims to harmonize the concept of foster family for the purposes of that Act, in particular by introducing the concept of “kinship foster family”.

Rules are also introduced to foster the involvement of Native communities and the preservation of the cultural identity of Native children.

Certain rules relating to placement of a child in a rehabilitation centre are updated, including through the introduction of a transition period applicable in the case of a child placed in an intensive supervision unit and aimed at returning the child to an open rehabilitation unit, and through the introduction of a measure aimed at preventing the child from leaving the rehabilitation centre if the child is at risk of running away and thus placing himself in danger.

Measures are also introduced to foster existing agreements or make new agreements involving parents and their child, including the possibility of extending and modifying a provisional agreement or reaching an agreement with the parents and child on a short-term intervention.

The Act also specifies that situations involving sexual exploitation of children are included in the sexual abuse-related grounds for considering their security or development to be in danger.

The protection granted to children who are victims of educational neglect, including in connection with compulsory school attendance, is broadened. Various measures are proposed in that respect, and the ground of educational neglect as well as the responsibilities and obligations of the director of youth protection and the latter’s partners are clarified.

Rules are introduced regarding the emancipation, by the Court of Québec, of children who are subject to the Youth Protection Act. In addition, certain rules applicable when children are entrusted to an alternative living environment and other rules pertaining to the disclosure of confidential information and the conservation of the information in children's records are revised.

In matters involving court interventions, the Act revises a number of rules concerning, among other things, immediate protective measures, the use of technological means, the service and notification of applications, provisional measures under which children are entrusted to an alternative living environment, the supplementary application of the procedure established by the Code of Civil Procedure, and the procedure for appeals to the Superior Court and the Court of Appeal.

In penal matters, the Act grants police forces new powers for enforcing the Youth Protection Act.

The Code of Penal Procedure is also amended to modify the special regime applicable to persons 18 years of age or over for an offence they committed before attaining full age.

Lastly, the Act makes consequential terminological changes to other Acts.

LEGISLATION AMENDED BY THIS ACT:

- Civil Code of Québec;
- Code of Penal Procedure (chapter C-25.1);
- Education Act (chapter I-13.3);
- Act to modify the organization and governance of the health and social services network, in particular by abolishing the regional agencies (chapter O-7.2);
- Act respecting the sharing of certain health information (chapter P-9.0001);
- Youth Protection Act (chapter P-34.1);
- Act respecting health services and social services (chapter S-4.2);

- Act respecting health services and social services for Cree Native persons (chapter S-5);
- Courts of Justice Act (chapter T-16).

REGULATIONS AMENDED BY THIS ACT:

- Regulation respecting the conditions of placement in an intensive supervision unit (chapter P-34.1, r. 6);
- Regulation establishing the Register of Reported Children (chapter P-34.1, r. 7);
- Regulation respecting the review of the situation of a child (chapter P-34.1, r. 8);
- Educational Childcare Regulation (chapter S-4.1.1, r. 2).

Bill 99

AN ACT TO AMEND THE YOUTH PROTECTION ACT AND OTHER PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

YOUTH PROTECTION ACT

1. Section 1 of the Youth Protection Act (chapter P-34.1) is amended

(1) by inserting the following subparagraphs after subparagraph *c* of the first paragraph:

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

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

(2) by inserting “any Native organization,” after “of children,” in subparagraph *d* of the first paragraph;

(3) by inserting “, including “kinship foster family”,” after ““foster family”” in the second paragraph;

(4) by adding the following paragraph at the end:

“In addition, in this Act, whenever it is provided that a child may be entrusted to a foster family, the child, if a Native, may also be entrusted to one or more persons whose activities are under the responsibility of a Native community or group of such communities with which an institution operating a child and youth protection centre has entered into an agreement under section 37.6 concerning such activities or with which the Government has entered into an agreement under section 37.5 that includes such activities. Those persons are then considered to be foster families for the purposes of this Act.”

2. Section 3 of the Act is amended by adding the following sentence at the end of the second paragraph: “In the case of a Native child, the preservation of the child’s cultural identity must also be taken into account.”

3. Section 4 of the Act is amended by adding the following paragraph at the end:

“A decision made under the second or third paragraph regarding a Native child must aim at entrusting the child to an alternative living environment capable of preserving his cultural identity, by giving preference to a member of his extended family or his community or nation.”

4. Section 7 of the Act is amended

(1) by replacing “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” in the first paragraph by “from one alternative living environment to another”;

(2) by adding the following paragraph at the end:

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

5. Section 9 of the Act is replaced by the following section:

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

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

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

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

6. Section 10 of the Act is amended by replacing the last paragraph by the following paragraph:

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

7. Section 11.1.1 of the Act is amended by replacing the second, third and fourth paragraphs by the following paragraphs:

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

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

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

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

8. The Act is amended by inserting the following section after section 11.1.1:

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

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

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

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

9. Section 11.2.1 of the Act is amended by inserting "or so authorizes on the conditions it determines" after "unless the tribunal so orders" in the first paragraph.

10. Section 11.3 of the Act is amended by replacing "who has committed an offence against an Act or a regulation in force in Québec" by "and, with the necessary modifications, any person 18 years of age or over who are placed in an institution operating a rehabilitation centre and who have committed an offence against an Act or a regulation in force in Québec or who are awaiting a decision of the tribunal regarding the commission of such an offence".

11. Section 23 of the Act is amended by inserting "even if at the time of the investigation the intervention under this Act has ended," after "bodies," in paragraph *b*.

12. Section 26 of the Act is amended by adding the following sentence at the end of the first paragraph: "Where the member is exercising the responsibility provided for in paragraph *b* of section 23, the member may also consult the record of a child regarding whom an intervention has ended, including because the child has reached 18 years of age."

13. Section 27 of the Act is amended by replacing “must be removed from the file not later than on the child’s reaching 18 years of age” by “must be removed from the file not later than on the child’s reaching 18 years of age. However, if a file is opened for the purposes of an investigation that is continued or conducted after the child has reached that age, the information must be removed not later than 30 days after the end of the investigation”.

14. Section 32 of the Act is amended

(1) by striking out subparagraph *c* of the second paragraph;

(2) by replacing the last paragraph by the following paragraph:

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

15. Section 37.4 of the Act is replaced by the following sections:

“37.4. If the director or the tribunal decides that the security or development of the child is in danger, the director must keep the information in the child’s record for the entire duration of the intervention and until he has reached 19 years of age.

If the director or the tribunal decides that the security or development of the child is no longer in danger, the information in the child’s record must be kept by the director for five years after that decision or until the child reaches 19 years of age, whichever is shorter.

“37.4.1. When the tribunal appoints a tutor to the child and the director puts an end to his intervention in respect of that child under section 70.2, the director must keep the information in the child’s record until the child has reached 19 years of age.

However, if a parent is reinstated as tutor, the director must keep the information for five years after that decision or until the child reaches 19 years of age, whichever is shorter.

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

“37.4.3. The tribunal may, for exceptional reasons, and for the period and on the conditions it determines, extend the retention period for the information in the child’s record.

It may also, for the period and on the conditions it determines, extend the retention period for the information in the record of a child referred to in section 37.4 to allow that child exclusive access to the information in his record in accordance with the Act respecting health services and social services (chapter S-4.2).”

16. The Act is amended by inserting the following sections after section 37.5:

“37.6. In order to facilitate preservation of the cultural identity of Native children and the involvement of Native communities in the decision-making and choice of measures concerning these children, an institution operating a child and youth protection centre may enter into an agreement with a Native community represented by its band council or by the northern village council or with a group of communities so represented which stipulates that such a community or such a group is to recruit and evaluate, in keeping with the general criteria determined by the Minister, persons able to take in one or more children who are members of the community and who are entrusted to them under this Act.

Such an agreement may also stipulate any other responsibility of the community or group of communities in relation to these persons’ activities, in accordance with ministerial policy directions.

“37.7. An institution operating a child and youth protection centre may, for the same purposes as those mentioned in section 37.6, enter into an agreement with a Native community represented by its band council or by the northern village council or with a group of communities so represented that specifies the terms applicable to the authorizations granted by the director for the exercise of one or more of the exclusive responsibilities of the director provided for in the following paragraph.

The director may, within the framework of such an agreement, authorize a person who is an employee of the Native community or the group of communities, in writing and to the extent the director specifies,

(1) to carry out the assessment of a child’s situation and living conditions as provided for in subparagraph *b* of the first paragraph of section 32, without, however, allowing that person to decide whether the security or development of the child is in danger; and

(2) to exercise, under the director’s authority as regards clinical matters or under the authority of the person the director authorizes in writing, one or more of the responsibilities provided for in subparagraphs *b* to *e* and *h.1* of the first paragraph of section 32.

Section 35 and any other section that applies to a person acting under section 32 apply to a person authorized to exercise a responsibility under this section. The director may, at any time, terminate an authorization.”

17. The Act is amended by inserting the following division after Division III of Chapter III:

“DIVISION IV

“EDUCATION NETWORK ORGANIZATIONS

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

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

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

18. Section 38 of the Act is amended

(1) by replacing “provide the child with schooling” at the end of subparagraph iii of subparagraph 1 of subparagraph *b* of the second paragraph by “ensure that the child receives a proper education and, if applicable, that he attends school as required under the Education Act (chapter I-13.3) or any other applicable legislation”;

(2) by replacing subparagraph *d* of the second paragraph by the following subparagraph:

“(d) “sexual abuse” refers to

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

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

19. Section 38.1 of the Act is amended by striking out paragraph *b*.

20. The Act is amended by inserting the following section after section 38.2:

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

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

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

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

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

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

21. Section 39 of the Act is amended by replacing the last paragraph by the following paragraphs:

“Every person referred to in this section may, after reporting a child’s situation to the director, communicate to the director any relevant information about the situation that is related to the report, with a view to ensuring the child’s protection.

The first, second and fourth paragraphs apply even to persons who are bound by professional secrecy, except to advocates or notaries who, in the practice of their profession, receive information concerning a situation described in section 38 or 38.1.”

22. Section 45 of the Act is amended by adding the following paragraph at the end:

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

23. Section 47 of the Act is amended by replacing the first paragraph by the following paragraphs:

“If the director proposes to extend the immediate protective measures and a child 14 years of age or over or the child’s parents object, or if an order of the tribunal on the applicable measures is enforceable, the director must refer the matter to the tribunal, which, if it considers it necessary, orders the extension of the immediate protective measures for not more than five working days. If there is no such objection or no such order, the director may also refer the matter to the tribunal, which orders such an extension if it considers it necessary.

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

24. Section 47.1 of the Act is replaced by the following section:

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

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

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

25. The Act is amended by inserting the following before section 49:

“§1.—*Director’s decision on whether the security or development of a child is in danger*”.

26. Section 51 of the Act is amended by replacing “the application of voluntary measures or” in the first paragraph by “an agreement on a short-term intervention or on voluntary measures, or”.

27. The Act is amended by inserting the following after section 51:

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

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

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

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

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

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

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

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

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

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

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

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

“§3.—*Agreement on voluntary measures*”.

28. Section 52 of the Act is amended by replacing the first paragraph by the following paragraph:

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

29. Section 53 of the Act is amended by replacing “foster care measure referred to in subparagraph” in the second paragraph by “measure entrusting the child under subparagraph *e, e.1* or”.

30. Section 53.0.1 of the Act is replaced by the following section:

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

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

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

31. Section 54 of the Act is amended by inserting the following subparagraph after subparagraph *e* of the first paragraph:

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

32. The Act is amended by inserting the following after section 56:

“DIVISION III.1

“REVIEW OF THE CHILD’S SITUATION”.

33. Section 57 of the Act is amended by inserting “, except the situation of a child taken in charge under an agreement on a short-term intervention” after “whose situation he has taken in charge”.

34. Section 57.2 of the Act is amended by replacing “of foster care” in subparagraph *d* of the first paragraph by “entrusting the child to an alternative living environment”.

35. The heading of Division IV before section 62 of the Act is replaced by the following heading:

“CHILD ENTRUSTED TO AN ALTERNATIVE LIVING ENVIRONMENT BY THE TRIBUNAL”.

36. Sections 62 to 64 of the Act are replaced by the following sections:

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

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

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

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

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

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

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

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

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

If a child is subject to a measure intended to prevent him from leaving the facilities maintained by the institution, as provided for in section 11.1.2, the same information as that provided for in the first paragraph must also be sent without delay to the Commission by the executive director, with the necessary modifications.

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

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

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

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

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

37. Section 65 of the Act is replaced by the following section:

“65. The parents of a child entrusted to an alternative living environment are subject to the contribution fixed by regulation made 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), except in the following cases:

(1) the child is entrusted to an institution operating a hospital centre or a local community service centre or to a body;

(2) the child is entrusted to persons who have not entered into an agreement as a kinship foster family with an institution operating a child and youth protection centre.”

38. Section 67 of the Act is amended by replacing “provided with foster care in a place” by “entrusted to an alternative living environment”.

39. The Act is amended by inserting the following division after section 70:

“DIVISION VI.01

“EMANCIPATION

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

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

The rules of the Civil Code apply to such emancipation.”

40. Section 70.1 of the Act is amended by replacing “protect the interest of the child and ensure” in the first paragraph by “ensure the interest of the child and”.

41. Section 72.5 of the Act is amended, in the first paragraph,

(1) by replacing all occurrences of “authorization” by “consent”;

(2) by replacing “celle” in the French text by “celui”.

42. Section 72.6 of the Act is replaced by the following section:

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

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

(1) to the Commission des normes, de l’équité, de la santé et de la sécurité du travail, where the disclosure is necessary for the application of the Crime Victims Compensation Act (chapter I-6) in respect of a claim relating to a child whose situation has been reported to the director under this Act;

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

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

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

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

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

43. The Act is amended by inserting the following section after section 72.6:

“72.6.0.1. Despite section 72.5, as soon as a Native child must be removed from his family environment to be entrusted to an alternative living environment, the director must inform the person responsible for youth protection services in the community of the child’s situation. In the absence of such a person, the director shall inform the person who assumes a role in matters of child and family services within the community. The director shall then solicit the cooperation of the person informed of the child’s situation in order to foster the preservation of the child’s cultural identity and, as far as possible, ensure that the child is entrusted to a member of his extended family or his community or nation.

Such information may be disclosed without it being necessary to obtain the consent of the person or persons concerned or an order of the tribunal. However, the director must inform the parents and the child if he is 14 years of age or over of such a disclosure.”

44. Section 72.7 of the Act is amended by replacing the first paragraph by the following paragraphs:

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

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

45. Section 72.8 of the Act is amended by replacing “l’*autorisation*” in the first paragraph in the French text by “le *consentement*”.

46. Section 72.9 of the Act is amended by replacing “37.4” in the last paragraph by “37.4.3”.

47. Section 72.11 of the Act is amended

(1) by striking out “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,” in the first paragraph;

(2) by adding the following paragraph at the end:

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

48. The heading of Division I of Chapter V of the Act is replaced by the following heading:

“INTERVENTION OF THE TRIBUNAL”.

49. Section 74 of the Act is repealed.

50. Section 74.0.1 of the Act is replaced by the following section:

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

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

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

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

51. Section 74.2 of the Act is amended

(1) by replacing “of voluntary foster care by a foster family or an institution operating a rehabilitation centre” in paragraph *c* by “of a voluntary measure entrusting the child to an alternative living environment”;

(2) by replacing “9 or 11.1.1” in paragraph *e* by “9, 11.1.1 or 11.1.2”.

52. Section 76 of the Act is replaced by the following section:

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

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

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

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

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

The tribunal may

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

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

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

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

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

53. The Act is amended by inserting the following sections after section 76:

“76.0.1. To ensure the orderly progress of a proceeding, the tribunal may, in accordance with the directives issued by the chief judge, on his own initiative or on request, given the nature, character or complexity of the case, order that it be examined as soon as the application is filed to determine whether the tribunal considers it necessary to establish a case protocol in cooperation with the parties or hold a management conference. The tribunal may also determine with the parties the time limits and terms applicable to them.

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

The case protocol covers such aspects as

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

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

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

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

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

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

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

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

(1) take measures to simplify or expedite the proceeding and shorten the hearing by ruling, among other things, on the advisability of ordering the consolidation or separation of proceedings, of better defining the issues in dispute, of amending the pleadings, of limiting the length of the hearing, of admitting facts or documents, of authorizing affidavits in lieu of testimony or of determining the procedure and time limit for the disclosure of exhibits and other evidence between the parties, or by convening the parties to a case management conference or a settlement conference, or encouraging them to hold discussions with a view to submitting a draft agreement to the tribunal under section 76.3;

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

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

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

54. Section 76.1 of the Act is amended by inserting the following paragraphs after the first paragraph:

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

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

55. Section 76.2 of the Act is repealed.

56. Section 76.3 of the Act is amended

(1) in the first paragraph,

(a) by inserting “including after a settlement conference,” after “At any time after the filing of the application,”;

(b) by replacing “submit a draft agreement on measures to put an end to the situation to the tribunal” by “submit a draft agreement or settlement on measures to put an end to the situation to the tribunal or to the judge who presided over the settlement conference”;

(2) by inserting “or the judge” after “The tribunal” in the second paragraph.

57. Section 76.4 of the Act is amended

(1) by inserting “or settlement” after “draft agreement”;

(2) by inserting “or the judge who presided over the settlement conference” after “the tribunal” and “or he” after “it”.

58. Section 76.5 of the Act is repealed.

59. Section 77 of the Act is amended by replacing the first paragraph by the following paragraph:

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

60. Section 79 of the Act is repealed.

61. Section 81 of the Act is replaced by the following section:

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

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

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

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

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

62. The Act is amended by inserting the following section after section 81:

“**81.1.** A person responsible for the youth protection services of a Native community or, in the absence of such a person, the person who assumes a role in child and family services in a Native community may testify and make representations before the tribunal at the hearing of any application concerning a Native child of that community and may, for those purposes, be assisted by an advocate.

That person may not otherwise participate in the hearing, unless the person has obtained the tribunal’s authorization to do so.

Except in the case of an application under section 47, the director must, as soon as possible, inform the person responsible for the youth protection services of a Native community or, in the absence of such a person, the person who assumes a role in child and family services in a Native community of the date, time and place of the hearing of any application concerning a Native child of that community, of the subject of such an application and of the person’s right to participate in the hearing to the extent provided for in this section.”

63. The Act is amended by inserting the following section after section 82:

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

The person or foster family may testify and make representations before the tribunal at the hearing and may, for those purposes, be assisted by an advocate.

The person or foster family may not otherwise participate in the hearing, unless it has obtained the tribunal’s authorization to do so.

Except in the case of an application under section 47, the director must, as soon as possible, inform the person or foster family of the date, time and place of the hearing of any application concerning the child entrusted to the person or foster family, of the subject of such an application and of the person's or foster family's right to be admitted to the hearing and participate in it to the extent provided for in this section."

64. Section 84 of the Act is amended by replacing "person" in the second paragraph by "party".

65. Section 85 of the Act is replaced by the following section:

"85. Unless the context indicates otherwise and subject to the special provisions of this Act, Books I and II of the Code of Civil Procedure (chapter C-25.01), except the second paragraph of article 10, the second, third and fourth paragraphs of article 31, articles 48, 54, 72, 142, 145 to 147, 155, 156, 166, 172 to 178, 180 to 183, 217 to 230, 243 and 246 to 252 and the third paragraph of article 279, apply, with the necessary modifications. For the purposes of article 74, the time limit is five days.

Articles 321, 325 to 327, 334, the second paragraph of article 336 and articles 337, 338, 349, 350 and 489 to 508 of that Code also apply in the same manner."

66. The Act is amended by inserting the following section after section 89:

"89.1. The defence is to be oral."

67. Section 90 of the Act is replaced by the following section:

"90. Every decision or order of the tribunal must give reasons.

The decision or order must be recorded in writing within 60 days after it is rendered at the hearing or after the matter is taken under advisement. If that time limit is not complied with, the Chief Judge may, on his own initiative or on a party's application, extend it or remove the judge from the case.

However, in the case of a decision or order concerning the extension of immediate protective measures or concerning provisional measures, the entry of the decision or order and main reasons for it in the minutes of the hearing, attested by the person who rendered the decision or order, is sufficient."

68. Section 91 of the Act is amended

(1) by inserting the following subparagraph after subparagraph *e* of the first paragraph:

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

(2) by replacing “place where the child may be provided with foster care and state how long the child is to stay at each of those places” in the third paragraph by “environment to which the child may be entrusted and state how long the child is to stay in each of those environments”.

69. Section 91.1 of the Act is amended by replacing the first and second paragraphs by the following paragraphs:

“If the tribunal orders that a child be entrusted to an alternative living environment under subparagraph *e, e.1* or *j* of the first paragraph of section 91, the total period for which the child is so entrusted may not exceed, depending on the child’s age at the time the order is made,

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

To determine how long the child is to be entrusted, the tribunal must, if it concerns the same situation, take into account the duration of any measure entrusting the child to an alternative living environment included in an agreement on the voluntary measures referred to in subparagraph *e, e.1* or *j* of the first paragraph of section 54. It must also take into account the duration of any measure entrusting the child to an alternative living environment it previously ordered under the first paragraph. It may also take into account any prior period when the child was entrusted to an alternative living environment under this Act.”

70. Section 91.2 of the Act is amended by replacing “a foster care measure under subparagraph” by “that the child be entrusted to an alternative living environment under subparagraph *e, e.1* or”.

71. Section 95 of the Act is amended by striking out subparagraph *a* of the third paragraph and the last paragraph.

72. Section 96 of the Act is amended

(1) by replacing subparagraph *k* of the first paragraph by the following subparagraph:

“(k) the Public Curator, with regard to the records of the tribunal kept under sections 70.0.1 to 70.6.”;

(2) by inserting the following paragraph after the first paragraph:

“In addition, a person who proves a legitimate interest may be authorized by the tribunal to take cognizance of a document the tribunal specifies or to receive a copy or duplicate of it.”;

(3) by inserting “referred to in the first paragraph and” after “person” in the last paragraph.

73. Section 96.1 of the Act is amended by replacing “of a decision, order” by “of a document”.

74. Section 100 of the Act is amended by inserting “, unless, given the circumstances, the Court decides it would be preferable to hear it in another district” at the end of the second paragraph.

75. Section 101 of the Act is amended by inserting “the Public Curator,” after “Commission,”.

76. Section 102 of the Act is amended by inserting “, if applicable,” after “transmission of the record and”.

77. Section 103 of the Act is replaced by the following sections:

“103. The appeal is brought by filing a notice of appeal, together with proof of service on or notification to the respondent, at the office of the Court within 30 days of the date on which the decision or order is recorded in writing.

The time limit for appeal is a strict time limit, and the right to appeal is forfeited on its expiry. Nevertheless, the Court may authorize the appeal if it considers that the party has a reasonable chance of success and that, in addition, it was impossible in fact for the party to act earlier.

“103.1. In addition to being served on or notified to the respondent, the notice of appeal must be served on or notified to the advocate who represented him in first instance.

Within 10 days after service or notification of the notice of appeal, the respondent must file a representation statement giving the name and contact information of the advocate representing him or, if the respondent is not represented, a statement indicating as much.

The advocate who represented the respondent in first instance, if no longer acting for him, must so inform the appellant, the respondent and the office of the Court of Appeal without delay.”

78. Section 104 of the Act is amended

(1) by inserting “the conclusions of the decision or order to be appealed,” after “the description of the parties,”;

(2) by replacing “of the court that rendered the decision or the order” by “of the district in which the decision or the order was rendered”.

79. Section 106 of the Act is replaced by the following sections:

“106. The clerk of the Court who receives the notice of appeal shall transmit a copy of the notice of appeal to the office of the tribunal. The clerk of the tribunal shall inform the judge who rendered the decision or order of the appeal and transmit the record of the case, together with a list of the documents it contains and a list of the entries made in the register, to the Court without delay.

As soon as the clerk of the tribunal receives a copy of the notice of appeal, he shall also take the necessary steps to obtain the transcript of the witnesses' depositions, unless the Court, at the appellant's request, exempts him from this obligation. As soon as he obtains the transcript, he shall transmit the original to the office of the Court and copies to the parties or their advocate. If it is impossible for him to obtain it, he shall inform the Court clerk and the parties or their advocate.

“106.1. If the appellant is not able, before the expiry of the time limit for appeal, to provide in the notice of appeal a detailed statement of all the grounds it plans to argue, the Court may, on an application and if serious reasons so warrant, authorize the filing of a supplementary statement within a time and on the conditions it specifies.”

80. Section 109 of the Act is amended by replacing “service on” by “notification to”.

81. Section 110 of the Act is repealed.

82. Section 112 of the Act is amended by inserting “or quash” after “uphold” in paragraph *a*.

83. Section 115 of the Act is amended by striking out “of that Court or”.

84. Section 116 of the Act is amended by replacing “according to the place where an appeal from a judgment in a civil matter would be instituted” by “according to their respective territorial jurisdictions set out in article 40 of the Code of Civil Procedure (chapter C-25.01)”.

85. Sections 117 to 127 of the Act are replaced by the following section:

“117. Subject to the provisions of this Act, Title IV of Book IV of the Code of Civil Procedure (chapter C-25.01) applies, with the necessary modifications, to this division.

For the purposes of that Title,

(1) the Superior Court is considered to be the tribunal of first instance;

(2) the contentions of the parties are stated in their memorandums, unless the Court of Appeal determines it is advisable to proceed using briefs; and

(3) all of the depositions and evidence may be filed in hard copy, despite the second paragraph of article 370 of that Code.”

86. Section 128 of the Act is amended

(1) by inserting “or any of its judges” after “The Court of Appeal”;

(2) by replacing “any order considered appropriate” by “any appropriate order”.

87. Section 129 of the Act is amended

(1) by inserting “82 to 84, 85, 92, 94, 94.1,” after “Sections”;

(2) by replacing “104 to 110” by “105, 107 to 109”.

88. Section 132 of the Act is amended by replacing subparagraph *k* of the first paragraph by the following subparagraph:

“(k) determine the conditions applicable to placement in an intensive supervision unit, as provided for in section 11.1.1, and to measures intended to prevent a child from leaving the facilities maintained by the institution operating a rehabilitation centre, as provided for in section 11.1.2.”

89. The Act is amended by inserting the following section after section 135.2.1:

“135.2.2. Any member of a police force may enforce the provisions of this Act whose violation constitutes an offence in any territory in which he provides police services.”

90. The Act is amended by replacing all occurrences of “executory” in sections 93, 114 and 131 by “enforceable”.

OTHER AMENDING PROVISIONS

CIVIL CODE OF QUÉBEC

91. The Civil Code of Québec is amended by inserting the following subdivision after article 176:

“§3.— *Certificate of emancipation*

“176.1. The clerk may issue, to an emancipated minor who so requests, a certificate attesting to his emancipation by the court. The certificate states whether the emancipation is simple or full.”

CODE OF PENAL PROCEDURE

92. Article 6 of the Code of Penal Procedure (chapter C-25.1) is amended by adding the following paragraph at the end:

“However, article 7 does not apply to persons who are 20 years of age or over on the date their detention begins.”

93. Article 368 of the Code is amended by replacing “by registered mail” at the end of the second paragraph by “using the most appropriate means of consultation, as determined by the chief justice”.

EDUCATION ACT

94. The Education Act (chapter I-13.3) is amended by inserting the following section after section 214.2:

“214.3. A school board must enter into an agreement with an institution operating a child and youth protection centre in its territory concerning the services to be provided to a child and his parents by the health and social services network and the education network if the child is the subject of a report for a situation of educational neglect in connection with the schooling the child receives or with the child’s compliance with compulsory school attendance under subparagraph iii of subparagraph 1 of subparagraph *b* of the second paragraph of section 38 of the Youth Protection Act (chapter P-34.1).

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

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

ACT TO MODIFY THE ORGANIZATION AND GOVERNANCE OF THE HEALTH AND SOCIAL SERVICES NETWORK, IN PARTICULAR BY ABOLISHING THE REGIONAL AGENCIES

95. Section 65 of the Act to modify the organization and governance of the health and social services network, in particular by abolishing the regional agencies (chapter O-7.2) is amended by replacing the second paragraph by the following paragraph:

“Subject to the second paragraph of section 68, the institution itself recruits resources on the basis of its users’ needs. It also sees to their assessment in compliance with the general criteria determined by the Minister.”

96. Section 68 of the Act is amended

- (1) by replacing “second” by “third”;
- (2) by adding the following paragraph at the end:

“In addition, one or two persons who fit the description given in the second paragraph of section 312 of the Act and who have entered into an agreement with an institution, except with regard to the reference to their recognition, are a kinship foster family.”

ACT RESPECTING THE SHARING OF CERTAIN HEALTH INFORMATION**97.** Section 113 of the Act respecting the sharing of certain health information (chapter P-9.0001) is amended

- (1) by replacing “the information concerning the child that is held in the health information banks in the clinical domains or in the electronic prescription management system for medication” in the first paragraph by “the health information concerning the child that is referred to in the first paragraph of section 112”;

- (2) by inserting the following paragraph after the first paragraph:

“The person having parental authority over a minor child under the age of 14 is entitled to be informed of and to receive the health information concerning the child that is referred to in the first paragraph of section 112. However, the person’s right is denied in cases where a director of youth protection determines, on the basis of the information contained in the record he keeps on the child, that the release of any or all of that health information causes or could cause harm to the child’s health in any of the following situations:

- (1) the assessment of the child’s situation and living conditions under section 49 of the Youth Protection Act (chapter P-34.1) is ongoing; or
- (2) the situation of the child is or has previously been taken in charge by a director of youth protection under section 51 of that Act.”

ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES**98.** Section 312 of the Act respecting health services and social services (chapter S-4.2) is amended by inserting the following paragraph after the first paragraph:

“In addition, one or two persons who have been assessed by a public institution under sections 305 and 314 after having been entrusted, under the Youth Protection Act (chapter P-34.1) and for a specified time, with a child designated by name may also be recognized as a foster family, in particular as

a kinship foster family. In making its assessment, the institution must, in particular, take into consideration the important ties the child has with that person or those persons.”

ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES FOR CREE NATIVE PERSONS

99. Section 1 of the Act respecting health services and social services for Cree Native persons (chapter S-5) is amended by inserting “, or a family which has been assessed by a social service centre after being entrusted, under the Youth Protection Act (chapter P-34.1) and for a specified time, with a child designated by name, which family may then be designated as a “kinship foster family” or “customary care foster family”” at the end of subparagraph *o* of the first paragraph.

100. Section 152 of the Act is amended by replacing “through which children or adults have been entrusted to it” in the third paragraph by “that assessed it”.

COURTS OF JUSTICE ACT

101. Section 146 of the Courts of Justice Act (chapter T-16) is amended

(1) by replacing “way of a consultation held at his request by registered mail” in the first paragraph and “means of a consultation held at his request by registered mail” in the second paragraph by “the most appropriate means of consultation, as determined by the chief judge”;

(2) by striking out the third paragraph.

102. Section 147 of the Act is amended

(1) by replacing “, other than those of the Civil Division,” in the first paragraph by “in criminal and penal matters”;

(2) by adding the following paragraph at the end:

“Other regulations are adopted in accordance with the Code of Civil Procedure (chapter C-25.01).”

REGULATION RESPECTING THE CONDITIONS OF PLACEMENT IN AN INTENSIVE SUPERVISION UNIT

103. The title of the Regulation respecting the conditions of placement in an intensive supervision unit (chapter P-34.1, r. 6) is replaced by the following title:

“REGULATION RESPECTING CONDITIONS APPLICABLE TO THE USE OF CERTAIN SUPERVISION MEASURES”.

104. The Regulation is amended by inserting the following before section 1:

“DIVISION I

“CONDITIONS APPLICABLE TO PLACEMENT IN AN INTENSIVE SUPERVISION UNIT”.

105. Section 1 of the Regulation is amended

(1) by replacing “of the child” in the first paragraph by “of the child’s situation”;

(2) by replacing “the child’s characteristics” in subparagraph 2 of the second paragraph by “the characteristics of the child and of his or her environment”;

(3) by adding the following subparagraph at the end of the second paragraph:

“(5) the child’s participation in his or her rehabilitation process.”

106. Section 2 of the Regulation is amended by replacing the first paragraph by the following paragraph:

“A child placed in an intensive supervision unit must receive rehabilitation services as well as services to ensure he or she receives schooling. Clinical support for the child must be sustained and personalized.”

107. Section 3 of the Regulation is amended by replacing “review” in the first paragraph by “reassess”.

108. The Regulation is amended by inserting the following section after section 3:

“3.1. If, during reassessment of the child’s situation, the executive director of the institution or the person the executive director authorizes in writing allows a child to carry out activities outside the intensive supervision unit during a transition period, that period may not exceed 5 consecutive days and the activities during that period are limited to 12 consecutive hours. The activities must, among other things, allow the child to test his or her progress in a less supervised environment than that of the intensive supervision unit and must facilitate his or her integration into or return to an open rehabilitation unit.”

109. Section 6 of the Regulation is amended

(1) by replacing “6 months” by “3 months”;

(2) by adding the following paragraph at the end:

“The report must include, for the period concerned,

(1) the number of placements in an intensive supervision unit;

(2) the number of children who have been the subject of such a measure, broken down by age and gender;

(3) the percentage of children placed in the institution’s facilities who have been the subject of such a measure;

(4) the average number of placements in this type of unit per child who has been the subject of such a measure; and

(5) the average length of placement in this type of unit.”

110. The Regulation is amended by inserting the following division after section 7:

“DIVISION II

“CONDITIONS APPLICABLE TO THE USE OF MEASURES INTENDED TO PREVENT A CHILD FROM LEAVING THE FACILITIES MAINTAINED BY THE INSTITUTION

“7.1. The decision of the executive director of an institution or the person the executive director authorizes in writing to use a measure intended to prevent a child from leaving the facilities maintained by the institution must be in writing and give reasons. The decision must be based on an assessment of the child’s situation that shows there is reasonable cause to believe that the child is at risk of running away and thus placing himself or herself or others in danger, without the child’s situation warranting placement in an intensive supervision unit.

The assessment must be made with the same recognized clinical tools as those used to assess the situation of the child before placement in an intensive supervision unit.

“7.2. If a child is the subject of a measure intended to prevent him or her from leaving the facilities maintained by the institution, the child must receive rehabilitation services and services to ensure he or she receives schooling. Clinical support for the child must be adapted to the child’s needs.

The intervention plan developed for the child must take the situation into account.

“7.3. The executive director of the institution or the person the executive director authorizes in writing must reassess the child’s situation as soon as the child’s clinical situation so requires to ensure that the use of the measure intended to prevent him or her from leaving the facilities maintained by the institution is still warranted or that the child’s situation does not warrant placement in an intensive supervision unit.

The child may not be the subject of such a measure for a period exceeding 7 days without the measure’s advisability being reassessed.

“7.4. Sections 4, 5 and 6 apply, with the necessary modifications, to this division.”

REGULATION ESTABLISHING THE REGISTER OF REPORTED CHILDREN

III. Section 4 of the Regulation establishing the Register of Reported Children (chapter P-34.1, r. 7) is amended by replacing “37.4” in the last paragraph by “37.4.3”.

REGULATION RESPECTING THE REVIEW OF THE SITUATION OF A CHILD

II2. Section 1 of the Regulation respecting the review of the situation of a child (chapter P-34.1, r. 8) is amended by replacing “in foster care” in subparagraphs 2 and 3 of the second paragraph by “entrusted to an alternative living environment”.

II3. Section 3 of the Regulation is amended by adding the following subparagraph at the end of paragraph 4:

“(f) the perception and assessment of the situation by the foster family or by the person to whom the child has been entrusted;”.

EDUCATIONAL CHILDCARE REGULATION

II4. Section 76 of the Educational Childcare Regulation (chapter S-4.1.1, r. 2) is amended by replacing the second paragraph by the following paragraphs:

“Despite the first paragraph, the coordinating office must immediately suspend the recognition of a home childcare provider if the provider or, if applicable, the provider’s assistant or a person residing in the residence where the childcare is provided, is implicated by a report that has been accepted for evaluation by the director of youth protection. The same applies in cases where any of those persons is implicated by a report leading to a disclosure of confidential information by the director of youth protection to the Director of Criminal and Penal Prosecutions or to a police force under section 72.7 of the Youth Protection Act (chapter P-34.1).

In the cases referred to in the second paragraph, the coordinating office must notify the provider as well as the parents of the children it provides homecare to of the suspension in writing without delay, and give the provider an opportunity to submit observations as soon as possible and, in all cases, within 10 days.”

TRANSITIONAL AND FINAL PROVISIONS

115. An agreement entered into between an institution operating a child and youth protection centre and a Native community or a group of such communities before (*insert the date of coming into force of section 16 of this Act*) and dealing, in particular, with one or more of the elements provided for in section 37.6 of the Youth Protection Act (chapter P-34.1), enacted by section 16, in connection with the exercise of the institution’s responsibilities in foster family matters, is considered to have been entered into under that section 37.6 only for the elements provided for in that section.

The elements not agreed on in writing must be confirmed by the parties in a written agreement entered into not later than (*insert the date that is 24 months after the date of coming into force of section 16*).

116. Until a regulation is made to determine the contribution of users who are taken in charge by a family-type resource under section 512 of the Act respecting health services and social services (chapter S-4.2), an institution that has entered into an agreement with a kinship foster family must require the parents of a child who is entrusted to that family to pay the contribution required from them under section 65 of the Youth Protection Act, as replaced by section 37, and under subdivision 1 of Division VII of Part VI of the Regulation respecting the application of the Act respecting health services and social services for Cree Native persons (chapter S-5, r. 1).

117. The agreements described in section 37.8 of the Youth Protection Act, enacted by section 17, and in section 214.3 of the Education Act (chapter I-13.3), enacted by section 94, must be entered into before (*insert the date that is 12 months after the date of coming into force of sections 17 and 94*).

118. This Act applies as soon as it comes into force. However,

(1) for the purposes of sections 53.0.1 and 91.1 of the Youth Protection Act, as amended respectively by sections 30 and 69, the situation of a child who, on (*insert the date of coming into force of subparagraph c.2 of the first paragraph of section 1 of the Youth Protection Act, enacted by paragraph 1 of section 1 of this Act*), is entrusted under subparagraph e of the first paragraph of section 54 or subparagraph e of the first paragraph of section 91 of the Youth Protection Act remains governed by the former Act until the director puts an end to his intervention or until the tribunal makes an order aimed at ensuring continuity of care, stable relationships and stable living conditions;

(2) appeals to the Superior Court that have already been initiated remain governed by the procedure set out in the former Act; and

(3) appeals to the Court of Appeal for which an application for leave to appeal has already been served on 5 October 2017 remain governed by the procedure set out in the former Act.

119. The provisions of this Act come into force on 5 October 2017, except

(1) paragraph 1, to the extent that it enacts subparagraph *c.2* of the first paragraph of section 1 of the Youth Protection Act, and paragraphs 2 to 4 of section 1, sections 2 to 8, 14 to 20, 22, 24, 25 to 31, 33 to 39, 41 to 46, 51, 68 to 70, 88, 94 to 96, 98 to 100 and 103 to 117, which come into force on the date or dates to be set by the Government;

(2) sections 62 and 63, which come into force on the date to be set by the Government, but not later than 1 January 2018.