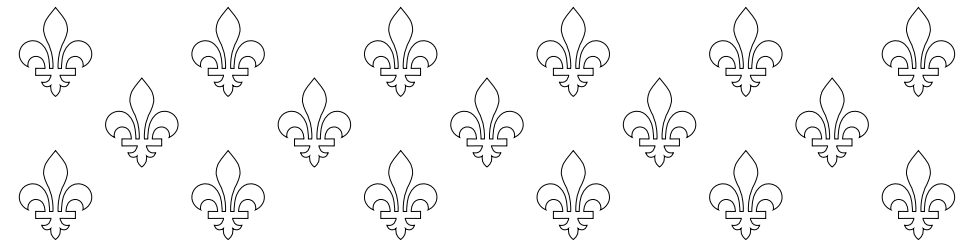

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-SEVENTH LEGISLATURE

Bill 125

An Act to amend the Youth Protection Act and other legislative provisions

Introduction

Introduced by
Madam Margaret F. Delisle
Minister for Youth Protection and Rehabilitation

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EXPLANATORY NOTES

This bill revises various aspects of the Youth Protection Act.

While reaffirming and clarifying the principle according to which the decisions made must aim at keeping a child in the family environment, the bill provides that, when this is not possible, the decisions made must ensure that the child benefit from a stable environment for a relatively long period of time. To that end, the bill introduces maximum periods of foster care, depending on the age of the child, requiring the social and judicial decision-makers to act sooner to guarantee continuity of care, stable relationships and stable living conditions corresponding to the child's needs and age. The bill also aims to expand the range of options for ensuring such stability by introducing various provisions relating to tutorship to a child.

The bill also introduces various measures encouraging the use of consensual approaches and allowing children and parents to actively participate in making decisions and choosing measures that concern them, thus reducing the need to refer matters to the tribunal.

In addition, the bill specifies which cases call for the protective measures provided for in the Act, particularly by giving a new description of the grounds on which the security or development of a child is considered to be in danger and by identifying the factors to be taken into consideration to determine, for instance, whether a report should be accepted for further analysis.

The bill clarifies certain rules governing the respect of a child's privacy, the accessibility and disclosure of information, and the length of time information held by the director of youth protection may be kept.

Furthermore, the bill revises and simplifies procedural rules to allow the tribunal to handle certain cases more quickly while respecting children's rights.

Lastly, the bill introduces a number of other amendments, including legislative and regulatory rules governing placement of a child in premises providing close supervision of the child's behaviour and movements.

LEGISLATION AMENDED BY THIS BILL:

– Youth Protection Act (R.S.Q., chapter P-34.1);

– Civil Code (1991, chapter 64);

– Act to implement the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption and to amend various legislative provisions in relation to adoption (2004, chapter 3).

Bill 125

AN ACT TO AMEND THE YOUTH PROTECTION ACT AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

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

(1) by replacing "and any educational body" in subparagraph *d* of the first paragraph by ", any educational body and any childcare establishment";

(2) by inserting the following subparagraph after subparagraph *d*.1 of the first paragraph:

"(*d*.2) "childcare establishment" means a childcare centre, a day care centre, home childcare, a nursery school and a stop over centre within the meaning of the Act respecting childcare centres and childcare services (chapter C-8.2);".

2. Section 2.3 of the Act is amended by replacing the first paragraph by the following paragraphs:

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

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

(*b*) must promote the means, particularly conciliation or any other similar method of reaching a consensus, that enable the child and the parents to take an active part in making the decisions and choosing the measures concerning them.

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

3. Section 4 of the Act is replaced by the following section:

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

If, in the interest of the child, it is not possible to keep the child in the family environment, the decision must aim at ensuring that the child benefits, insofar as possible with the persons most important to the child, from continuity of care, stable relationships, and stable living conditions corresponding to the child's needs and age and as nearly similar to those of a normal family environment as possible. Moreover, the parents' involvement must always be encouraged, with a view to returning the child to the family.

If, in the interest of the child, returning the child to the family is impossible, the decision must aim at ensuring, over a relatively long period of time, continuity of care, stable relationships and stable living conditions corresponding to the child's needs and age."

4. Section 8 of the Act is amended by adding the following paragraph:

"The child's parents are also entitled to receive adequate health services and social services in accordance with the Act respecting health services and social services and the Act respecting health services and social services for Cree Native persons."

5. The Act is amended by inserting the following section after section 11.1:

"**11.1.1.** If a child is provided with foster care following an immediate protective measure or an order issued by the tribunal under this Act, and there is a serious risk that the child represents a danger to himself or to others or that the child does not respect the measure or the order, the child may be placed in premises maintained by an institution operating a rehabilitation centre where, due to the more restrictive physical layout, the child's behaviour and movements will be closely supervised.

Such placement must end as soon as the grounds for it no longer exist.

The placement must respect the conditions set by regulation, and a detailed report of the placement must be entered in the child's record, mentioning the reasons for it and the duration. A copy of the regulation must be given to both the child, if he is able to understand it, and the child's parents."

6. Section 32 of the Act is amended

(1) by replacing subparagraphs *a* and *b* of the first paragraph by the following subparagraphs:

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

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

(2) by replacing subparagraph *e* of the first paragraph by the following subparagraph:

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

(3) by adding "or, in the cases provided for in this Act, apply to the tribunal for the appointment or replacement of a tutor" at the end of subparagraph *f* of the first paragraph;

(4) by inserting "or third" after "second" in the last line of subparagraph *i* of the first paragraph.

7. The Act is amended by inserting the following section after section 35.3:

"**35.4.** Notwithstanding section 19 of the Act respecting health services and social services (chapter S-4.2), at the request of the director or a person acting under section 32 of this Act, an institution must disclose information contained in the record of the child, either of the child's parents or a person implicated in a report, if the information contained in the record reveals or confirms a situation which may make it possible to decide whether the security or the development of the child is or may be considered to be in danger."

8. Section 36 of the Act is replaced by the following section:

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

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

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

9. Sections 37.1 to 37.4 of the Act are replaced by the following sections:

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

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

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

"**37.4.** If the director or the tribunal decides that the security or development of a child is no longer in danger or if a child whose security or development is in danger reaches 18 years of age, the director must keep the information in the child's record for five years after the decision or the time the child reached the age of 18."

10. Section 38 of the Act is replaced by the following section:

"**38.** For the purposes of this Act, the security or development of a child is considered to be in danger if the child is abandoned, neglected, subjected to psychological ill-treatment or sexual or physical abuse, or if the child has serious behavioural disturbances.

In this Act,

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

(*b*) "*neglect*" refers to

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

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

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

iii. failing to provide the child with the appropriate supervision or support, or failing to take the necessary steps to provide the child with schooling; or

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

(*c*) "*psychological ill-treatment*" refers to a situation in which a child is seriously or repeatedly subjected to behaviour on the part of the child's parents or another person that endangers the child's security or development and the child's parents fail to take the necessary steps to put an end to the situation. Such behaviour includes in particular indifference, denigration, emotional rejection, isolation, threats, exploitation, particularly if the child is forced to do work disproportionate to the child's capacity, and exposure to conjugal or domestic violence;

(*d*) "*sexual abuse*" refers to

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

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

(*e*) "*physical abuse*" refers to

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

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

(*f*) "*serious behavioural disturbance*" refers to a situation in which a child

(1) behaves in such a manner as to seriously or repeatedly undermine the child's physical or psychological integrity, and the child's parents fail to take the necessary steps to put an end to the situation or, if the child is 14 or over, the child objects to such steps; or

(2) is younger than 12 years old and represents a serious or constant danger to others, and the child's parents fail to take the necessary steps to put an end to the situation."

11. The Act is amended by inserting the following section after section 38.1:

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

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

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

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

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

12. Section 39 of the Act is amended

(1) by replacing "subparagraph *g*" in the second paragraph by "subparagraphs *d* and *e* of the second paragraph";

(2) by replacing *", d, e, f or h*" in the third paragraph by "or *f* of the second paragraph".

13. Section 41 of the Act is amended by replacing "assault or who is subject to physical ill-treatment through violence or neglect" by "or physical abuse".

14. The heading of Division II of Chapter IV of the Act is replaced by the following heading:

"RECEIVING AND PROCESSING REPORTS".

15. Section 45 of the Act is amended by replacing ", who shall determine if it is admissible and whether or not urgent measures are required" by ". The director must consider the report, analyze it briefly and decide whether it is to be accepted for evaluation."

16. The Act is amended by inserting the following after section 45:

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

In addition, where the situation requires it, 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 them. If they consent to it, the director must direct them to the institutions, bodies or persons best suited to assist them and forward the information relevant to the situation to the service provider. The director may advise the child and the child's parents on the choice of persons or bodies available to accompany or assist them.

"DIVISION II.1

"IMMEDIATE PROTECTIVE MEASURES".

17. Section 46 of the Act is amended

(1) by inserting the following paragraphs before the first paragraph:

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

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

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

(2) by replacing "urgent" in the first line of the first paragraph by "immediate protective";

(3) by inserting "to one of his parents," after "hospital centre," in the second line of subparagraph *b* of the first paragraph;

(4) by adding the following subparagraphs at the end of the first paragraph:

"(*d*) restricting contact between the child and his parents;

"(*e*) prohibiting the child from contacting certain persons designated by the director, or prohibiting those persons from contacting the child;

"(*f*) ordering a person to ensure that the child and his parents comply with the conditions imposed on them and to inform the director if the conditions are not complied with;

"(*g*) imposing any other measure he considers necessary in the interest of the child.";

(5) by replacing "first paragraph" in the second line of the second paragraph by "fourth paragraph".

18. Section 47 of the Act is replaced by the following sections:

"**47.** If the director proposes that immediate protective measures be extended and a child 14 years of age or over or the child's parents object, the director must submit the case to the tribunal to obtain an order attesting that the extension is necessary. Such an order may be issued by the clerk if the judge is absent or unable to act and if a delay could cause serious harm to the

child. The decision of the tribunal or the clerk may not have effect for more than five working days.

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

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

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

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

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

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

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

19. Section 50 of the Act is amended

(1) by replacing "may" in the third line of the second paragraph by "must";

(2) by replacing "For that purpose, he" in the fourth line of the second paragraph by "and forward the relevant information on the situation to the service provider. He".

20. Section 51 of the Act is amended by replacing the last sentence of the first paragraph by the following sentence: "To that end, before proposing the application of voluntary measures or referring the matter to the tribunal, the director shall recommend a consensual approach, where the situation allows it, to encourage the active participation of the child and the child's parents."

21. Section 53 of the Act is replaced by the following section:

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

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

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

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

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

(*a*) 12 months if the child is under two years of age;

(*b*) 18 months if the child is from two to five years of age; or

(*c*) 24 months if the child is six years of age or over

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

If the security or development of the child is still in danger at the expiry of the period of foster care provided for in the first paragraph, the director shall refer the matter to the tribunal to obtain an order guaranteeing continuity of care and stable relationships and living conditions over a relatively long period of time."

23. Section 54 of the Act is amended

(1) by replacing "place of learning other than a school" in subparagraph *k* of the first paragraph by "school or another place of learning or participate in a program geared to developing skills and autonomy";

(2) by adding the following subparagraph at the end of the first paragraph:

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

24. Section 55 of the Act is amended by replacing "must, by all available means, contribute to" in the first and second lines by "must take all available means to provide the services required for".

25. Section 57 of the Act is replaced by the following section:

"**57.** Within the time prescribed by regulation, the director shall review the case of each child whose situation he has taken in charge. He shall ensure that every measure is taken to return the child to his parents. If it is not in the best interest of the child to be returned to his parents, the director shall see that the child benefit from continuity of care and stable relationships and living conditions over a relatively long period of time."

26. Section 57.2 of the Act is amended

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

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

(2) by replacing "may" in the fourth line of the second paragraph by "must";

(3) by replacing "For that purpose, he" in the fifth line of the second paragraph by "and forward the relevant information on the situation to the service provider. He".

27. Section 62 of the Act is amended

(1) by replacing "operating a rehabilitation centre or a foster family to which the child may be entrusted" in the second and third lines of the first paragraph by ", to which the child may be entrusted, that operates a hospital centre or a rehabilitation centre or works in conjunction with foster families";

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

"If the tribunal orders the compulsory foster care of a child, the director may authorize the child to stay with his father or mother or a person who is important to the child for periods of not more than 15 days, provided those periods are part of an intervention plan and respect the interest of the child.

With a view to preparing the child's return to his family or social environment, the director or a person authorized by the director under section 32 may authorize the child to stay with his father or mother, a person who is important to the child or a foster family for extended periods during the last 60 days of the period of compulsory foster care."

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

“DIVISION VI.1

“TUTORSHIP

“**70.1.** If the director considers that tutorship is the measure most likely to protect the interest of the child and the respect of his rights, the director shall apply to the tribunal to be appointed as tutor, to have a person he recommends appointed as tutor or to replace the tutor of a child whose situation he has taken in charge.

“**70.2.** The director puts an end to his intervention in respect of a child whose situation he has taken in charge when the child has been entrusted to a person or a foster family and that person or a member of the foster family has been appointed as the child’s tutor in accordance with subparagraph *o* of the first paragraph of section 91.

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

“**70.4.** If the tutor of the child dies, has serious reasons to give up his duties or is no longer able to perform them, the matter must be referred to the tribunal.

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

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

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

“**70.6.** If a tutor referred to in section 70.2 has been appointed, the tribunal may grant the parents visitation rights and prescribe visitation conditions and any other measure relating to the tutorship, in the interest of the child.”

29. Section 72.6 of the Act is amended by inserting the following paragraph after the second paragraph:

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

30. Section 72.7 of the Act is amended

(1) by replacing "*c* or *g* of the first paragraph" in the second and third lines of the first paragraph by "*b*, *d* or *e* of the second paragraph";

(2) by replacing "or to a police force" in the fifth line of the first paragraph by ", to a police force or to an institution or body that exercises a responsibility in respect of the child concerned".

31. The Act is amended by inserting the following sections after section 72.8:

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

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

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

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

"**72.10.** Under this Act, no person may publish or broadcast information allowing the identification of a child or his parents, unless the publication or broadcast is ordered by the tribunal or is necessary for the purposes of this Act or a regulation made under it."

32. The Act is amended by inserting the following section after section 73:

"**73.1.** After taking into consideration the opinion of the parties, the tribunal may hear the cases of several children of a same parent at the same time, if doing so poses no risk of harm to any of them and if the same situation endangers the security or development of all of them. However, the tribunal shall give separate orders for each child in accordance with section 91."

33. Section 74 of the Act is amended by replacing "urgent" in the second line by "immediate protective".

34. Section 75 of the Act is amended

(1) by replacing "sworn declaration" in the first line of the first paragraph by "motion";

(2) by replacing "declaration" in the second line of the second paragraph by "motion".

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

"**76.** If made by a person other than the child or his parents, the motion, together with notice of the filing date, must be served on the parents, on the child if 14 years of age or over, on the director and on the advocates of the parties in one of the modes provided for in the Code of Civil Procedure (chapter C-25), not less than 10 days or more than 60 days before proof and hearing.

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

The notice need not be sent

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

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

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

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

36. The Act is amended by inserting the following sections after section 76.1:

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

The purpose of the pre-hearing conference is to rule on appropriate means of simplifying and shortening the proof, including the advisability of amending the motion, obtaining admissions, defining the questions of law and fact at issue, providing a list of witnesses and providing access to the originals of the documents the parties intend to file at the hearing.

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

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

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

"**76.4.** After establishing that the security or development of the child is in danger and verifying that the measures proposed in the draft agreement respect the rights and interests of the child, the tribunal may order the implementation of those measures.

"**76.5.** The clerk may accept a cross-motion outside the presence of the parties if it need not be served, including a cross-motion requesting a special mode of service, permission to give untimely service or a shorter period for filing the motion."

37. Section 77 of the Act is amended by replacing "judge" in the first line of the fourth paragraph by "tribunal".

38. Section 80 of the Act is amended by replacing "the defense of" in the second and third lines by "counsel and represent".

39. Section 81 of the Act is amended by replacing the second paragraph by the following paragraphs:

"The child, his parents, the director and the Commission are parties to the hearing.

The tribunal may, for the requirements of the proof and hearing, grant any other person the status of party to the hearing if it considers it expedient to do so in the interest of the child.

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

40. Section 82 of the Act is amended by replacing the second and third paragraphs by the following paragraphs:

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

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

41. Section 83 of the Act is amended

(1) by striking out the first paragraph;

(2) by striking out "Furthermore," at the beginning of the second paragraph.

42. Section 84 of the Act is amended by replacing "judge" in the first and second lines of the first paragraph by "tribunal".

43. The Act is amended by inserting the following section after section 84:

"**84.1.** If, after the filing of the motion, a document relating to the proceedings is found to be in the possession of a third party, the third party must, on a summons authorized by the tribunal, communicate it to the parties, unless he shows cause why he should not do so.

The tribunal may, at any time after the filing of the motion, order a party or a third person to exhibit, preserve or submit to an expert's appraisal any real evidence relating to the proceedings he has in his possession, on the conditions, at the time and place, and in the manner it considers expedient."

44. Section 85 of the Act is amended by replacing "2, 14 to 17, 19, 20, 46, 49 to 54, 279 to 292, 294 to 299, 302 to 304, 306 to 318 and 321 to 331" in the first and second lines by "2, 8, 14 to 17, 19, 20, 46, 49 to 54, 82.1, 95, 99, 216, 217, 243, 280 to 292, 294 to 299, 302 to 304, 306 to 318, 321 to 331 and 402.1".

45. Section 85.5 of the Act is amended by replacing "d'autres éléments de preuve qui en confirment" in the third line of the second paragraph of the French text by "un autre élément de preuve qui en confirme".

46. Section 86 of the Act is amended by replacing the first paragraph by the following paragraph:

"**86.** Before rendering a decision on the measures applicable, the tribunal shall take cognizance of the director's analysis of the child's social situation and the recommendations made."

47. Section 87 of the Act is amended by replacing "paragraph *g*" in the third line of the second paragraph by "subparagraphs *d* and *e* of the second paragraph".

48. Section 88 of the Act is amended by replacing "judge" wherever it occurs in the third line of the second paragraph by "tribunal", and "satisfy himself" in the fourth line of that paragraph by "see".

49. Section 89 of the Act is replaced by the following section:

"**89.** The tribunal must explain to the parties, especially the child, the nature of the measures envisaged and the reasons justifying them. It must endeavour to obtain the assent of the child and of the other parties to the measures."

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

"**90.** A decision or order of the tribunal must be rendered as soon as possible. It may be rendered verbally if the reasons for doing so are given. Barring exceptional circumstances, it must be rendered in writing not later than 60 days after it was rendered verbally."

51. Section 91 of the Act is amended

(1) by inserting "to ensure continuity of care and stable relationships and living conditions for the child" after "following measures" in the third line of the first paragraph;

(2) by inserting "or be entrusted to one of his parents on the conditions it determines, including visitation and outing rights," after "family" in the first line of subparagraph *a* of the first paragraph;

(3) by replacing "certain health services" in subparagraph *i* of the first paragraph by "specific health care and health services";

(4) by replacing "place of learning other than a school" in subparagraph *k* of the first paragraph by "school or another place of learning or participates in a program geared to developing skills and autonomy";

(5) by adding the following subparagraphs at the end of the first paragraph:

"(*l*) that the child attend a childcare establishment;

"(*m*) that a person ensure that the child and his parents comply with the conditions imposed on them and periodically report to the director;

"(*n*) that the exercise of certain attributes of parental authority be withdrawn from the parents and granted to the director or to any other person the tribunal designates;

"(*o*) that a tutor be appointed to the child or that the tutor appointed to the child be replaced and, if applicable, that provision be made for the parents' visitation rights and for any other measure related to the tutorship; and

"(*p*) that a period over which the child will be gradually returned to his family or social environment be determined.";

(6) by replacing the second paragraph by the following paragraphs:

"The tribunal may make any recommendation that it considers to be in the interest of the child.

The tribunal may include several measures in the same order to the extent that they are not incompatible and that they are in the interest of the child. The

tribunal may also, in its order, provide for more than one placement for the child and specify the period of each placement."

52. The Act is amended by inserting the following sections after section 91:

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

(*a*) 12 months if the child is under 2 years of age on the date the order is made,

(*b*) 18 months if the child is from 2 to 5 years of age on the date the order is made, or

(*c*) 24 months if the child is 6 years of age or over on the date the order is made.

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

However, the tribunal may disregard the periods specified in the first paragraph if there is a possibility the child will be returned to his family in the short term or if there are exceptional circumstances or serious reasons for doing so and the interest of the child requires it.

At any time during a period specified in the first paragraph, if the security or development of the child is still in danger, the tribunal may make an order aimed at ensuring continuity of care as well as stable relationships and living conditions over a relatively long period of time. However, the tribunal must make such an order at the expiry of the specified period if the security or development of the child is still in danger.

"**91.2.** The periods specified in the first paragraph of section 91.1 do not apply if the tribunal orders a foster care measure under subparagraph *j* of the first paragraph of section 91 and an order aimed at ensuring continuity of care as well as stable relationships and living conditions over a relatively long period of time has already been made."

53. Section 92 of the Act is amended by adding the following paragraph:

"Every institution and every educational body is required to take all available means to provide the services required to carry out the measures ordered. The same applies to every person and to every other body that agrees to apply such measures."

54. The Act is amended by inserting the following section after section 92:

"**92.1.** At the expiry of the order of the tribunal, the director or a person authorized by the director under section 32 may, with the consent of the parties and over a maximum period of one year, continue the protective measures or amend them with a view to the child's gradual return to his family or social environment."

55. Section 95 of the Act is amended by adding the following paragraphs at the end:

"If the application for the review or extension of a decision or an order seeks a measure that is less restrictive for the child or one that is more restrictive for the child but that is agreed on by all the parties involved, the following rules apply:

(*a*) the application must be served on the parties at least 10 days before it is to be filed;

(*b*) if one of the parties requests it, the tribunal shall hear the parties within 10 days following the date on which the application is to be filed; and

(*c*) if none of the parties object, the tribunal may accept the application without a hearing or proceed to hear the application.

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

56. The Act is amended by inserting the following section after section 95:

"**95.0.1.** If a child is declared eligible for adoption or his parents consent to his adoption, all incompatible conclusions in the protective order become inoperative."

57. Section 132 of the Act, amended by section 24 of chapter 3 of the statutes of 2004, is again amended by adding the following subparagraphs at the end of the first paragraph:

"(*i*) to determine the terms and conditions on which financial assistance may be granted to facilitate tutorship to a child;

"(*j*) to establish the register referred to in section 72.9 and indicate which personal information will be entered in it and on what conditions, as well as who will be in charge of it; and

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

58. The Act is amended by inserting the following section after section 156:

"**156.1.** Not later than (*insert the date that is three years after the date of coming into force of this section*) and subsequently every five years, the Commission must report to the Government on the carrying out of this Act and on the advisability of amending it.

The Minister of Justice or the Minister of Health and Social Services lays the report before the National Assembly within 30 days of its receipt by the Government or, if the Assembly is not sitting, within 30 days of resumption."

59. The Act is amended by replacing "Young Offenders Act (Revised Statutes of Canada, 1985, chapter Y-1)" in section 2.1, paragraph *a* of section 23 and section 33.3 by "Youth Criminal Justice Act (Statutes of Canada, 2002, chapter 1)".

60. The Act is amended by replacing "information" by "report", "the report" and "report" respectively in sections 45, 49 and 73.

61. Article 132.1 of the Civil Code (1991, chapter 64), enacted by section 13 of chapter 3 of the statutes of 2004, is amended by replacing the fourth paragraph by the following paragraph:

"The Minister of Health and Social Services notifies to the registrar of civil status the certificate issued by the foreign competent authority and the declaration containing the name chosen for the child transmitted to the Minister under the Act to implement the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, unless the Minister has applied to the court for a ruling under the second paragraph of section 9 of that Act. Where applicable, the Minister also notifies the certificate drawn up by the Minister under the same section to attest to the conversion of the adoption."

62. Section 8 of the Act to implement the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption and to amend various legislative provisions in relation to adoption (2004, chapter 3) is amended by adding ", together with a declaration made by the adopter before a witness indicating the name chosen by the adopter for the child" at the end.

63. The provisions of this Act come into force on the date or dates to be set by the Government.