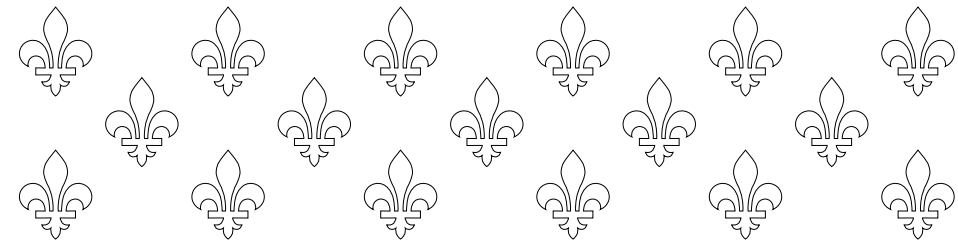

NATIONAL ASSEMBLY

FIRST SESSION FORTY-FIRST LEGISLATURE

Bill 99

An Act to amend the Youth Protection Act and other provisions

Introduction

Introduced by
Madam Lucie Charlebois
Minister for Rehabilitation, Youth Protection, Public Health and Healthy Living

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EXPLANATORY NOTES

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

First, the bill proposes that the rules applicable to children be harmonized regardless of which alternative living environment they are entrusted to under that 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 children who are members of such communities.

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 bill 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.

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. The bill determines the respective responsibilities of the Minister of Health and Social Services and the Director of Youth Protection in administering the adoption of children domiciled in Québec by persons domiciled outside Québec.

In matters involving court interventions, the bill 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 suppletory 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 bill 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 bill makes consequential terminological changes to other Acts.

LEGISLATION AMENDED BY THIS BILL:

– Civil Code of Québec;

– Code of Penal Procedure (chapter C-25.1);

– 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);

– 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).

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 paragraphs after paragraph *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 ", including "kinship foster family"," after ""foster family"" in the second paragraph;

(3) 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 member of a Native community, 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 whom an institution operating a child and youth protection centre has entered into an agreement under section 37.6 in relation to such activities. These 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 child who is a member of a Native community, 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 child who is a member of a Native community must aim at entrusting the child to an alternative living environment capable of preserving his cultural identity."

4. Section 7 of the Act is amended by replacing "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 "alternative living environment to another".

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 judges and 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 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.

7. 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" at the end by "and, with the necessary modifications, to any person 18 years of age or over who have committed an offence against an Act or a regulation in force in Québec and who are placed in a rehabilitation centre".

8. Section 32 of the Act is amended by replacing the last paragraph by the following paragraph:

"If a decision regarding the direction of a child involves 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, provided the conditions of the second paragraph of section 52.1 are met."

9. 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.

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 18 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 18 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 18 years of age, whichever is shorter.

"**37.4.2.** 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)."

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

"**37.6.** In order to facilitate the preservation, under sections 3 and 4, of the cultural identity of a child who is a member of a Native community, 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 to allow such a community or group of communities 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."

11. Section 38 of the Act is amended 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;".

12. 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 executory, 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 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."

13. 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."

14. Section 48 of the Act is amended by striking out the first paragraph.

15. 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*".

16. 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".

17. 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 from 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 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.

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 the agreement ends and the security or development of the child remains in danger.

"**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.** Sections 52.1 and 55 and the second paragraph of section 57.2 apply, with the necessary modifications, to short-term interventions.

"§3.—*Agreement on voluntary measures*".

18. 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."

19. 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* or".

20. 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* 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."

21. Section 54 of the Act is amended, in the first paragraph,

(1) by inserting "or to a kinship foster family" at the end of subparagraph *e*;

(2) by inserting "other than a kinship foster family," after "foster family," in subparagraph *j*.

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

"**DIVISION III.1**

"REVIEW OF THE CHILD'S SITUATION".

23. 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".

24. 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".

25. 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".

26. 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 a hospital centre or to a foster family, it shall require the director to designate that institution or the institution that has recourse to foster families to which the child may be entrusted. However, if the tribunal makes an order under the third paragraph of section 91.1, it may designate the foster family. Furthermore, when ordering that the child be entrusted to a kinship foster family, the tribunal shall designate that family.

The tribunal shall require the director to 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 maintained by an institution operating a rehabilitation centre in accordance with section 11.1.1, the executive director of the institution must, without delay, send the Commission a notice giving the child's name, date of birth and gender, the information regarding 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 send the Commission the decision or order of the tribunal without delay if the executive director's decision to place the child in such a unit was referred to the tribunal.

"**64.** If the placement period for a child entrusted to an institution operating a rehabilitation centre by the tribunal ends during the 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 a placement period in another alternative living environment 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, including a kinship 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."

27. 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."

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

29. 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."

30. The heading of subdivision 1 of Division VII of Chapter IV of the Act is replaced by the following heading:

"§1. — *Provisions relating to the adoption of a child domiciled in Québec by a person domiciled in Québec or outside Québec*".

31. Section 71 of the Act is amended

(1) by replacing "ensure that children's rights are respected" in the introductory clause by "protect the interest of the children and ensure the respect of their rights";

(2) by inserting "or to their transfer with a view to their adoption" at the end of paragraph 5.

32. The Act is amended by inserting the following subdivision after section 71.3:

"§1.1. — *Special provisions relating to the adoption of a child domiciled in Québec by a person domiciled outside Québec*

"**71.3.1.** The Minister shall exercise the following responsibilities:

(1) intervene in all cases of adoption of a child domiciled in Québec by a person domiciled outside Québec in order to administer the procedure set out in the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption and ensure compliance with the Act to implement the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (chapter M-35.1.3); and

(2) retain the files for such adoptions and grant requests for research into family and medical antecedents and for reunions, to the extent provided for in the Civil Code of Québec and in cooperation with the persons exercising authority in matters of adoption in Québec and outside Québec.

"**71.3.2.** As soon as the director intends to entrust a child domiciled in Québec to a person domiciled outside Québec with a view to the child's adoption, or as soon as the director receives an application for the adoption of a child domiciled in Québec from a person domiciled outside Québec, he must inform the Minister without delay. Likewise, the Minister shall inform the director when he receives such an application. The director and the Minister ensure the orderly conduct of the adoption according to their respective jurisdictions. The Minister shall coordinate their respective actions.

"**71.3.3.** The Government may, by regulation, prescribe the terms and conditions of the adoption process for a child domiciled in Québec by a person domiciled outside Québec."

33. Section 71.4 of the Act is amended by inserting the following paragraph after paragraph 2:

"(2.1) administer the procedure set out in the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption and ensure compliance with the Act to implement the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (chapter M-35.1.3);".

34. Section 71.9 of the Act is amended by adding the following paragraph at the end:

"When the director takes charge of a child after the child's adoption, whether the latter was granted in Québec or outside Québec, he must inform the Minister

and, on request, send him all of the information necessary for the exercise of his responsibilities."

35. Section 71.12 of the Act is repealed.

36. The Act is amended by inserting the following subdivision after section 71.15:

"§2.1. — *Communication of information*

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

37. 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".

38. Section 72.6 of the Act is amended

(1) by adding the following sentence at the end of the first paragraph: "The same applies to a person, body or institution brought in to collaborate with the director, if the latter considers that the disclosure is necessary to ensure the protection of the child in accordance with the Act.";

(2) by replacing all occurrences of "authorization" by "consent".

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

"**72.6.1.** Despite section 72.5, when a child who is a member of a Native community 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 of the community.

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."

40. Section 72.7 of the Act is amended, in the first paragraph,

(1) by striking out "if the physical or mental health of the child is concerned,";

(2) by replacing "l'autorisation" in the French text by "le consentement".

41. Section 72.8 of the Act is amended by replacing "l'autorisation" in the first paragraph in the French text by "le consentement".

42. 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 information contained in the record of a user who is a minor in foster care, placed or entrusted to a tutor under this Act to the Canada Revenue Agency 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)."

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

"INTERVENTION OF THE TRIBUNAL".

44. Section 74 of the Act is repealed.

45. 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."

46. Section 74.2 of the Act is amended 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".

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

"**76.** Every application must be accompanied by a notice of the date fixed for its presentation and must, at least 10 days but not more than 60 days before the hearing,

(1) be served by bailiff, personally, to the parents and to the child, if he is 14 years of age or over, or be notified to them by registered mail or by the director personally;

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

For the purposes of subparagraph 1 of the first paragraph, a document is considered to be mailed by registered mail if the receipt of the document is recorded.

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

The tribunal may

(1) authorize a different means 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 in attendance at the tribunal and have waived such service or notification.

An application made to the tribunal under the fourth paragraph must be filed in the district established under section 73 or in the district in which the person making the service or notification resides.

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

48. Section 76.5 of the Act is repealed.

49. 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."

50. Section 79 of the Act is replaced by the following section:

"**79.** For the purposes of section 76.1, the tribunal shall order that a child be entrusted, under provisional measures of not more than 30 days, to an alternative living environment if, after examining the situation, it concludes that the child's remaining with or returning to his parents or to his residence is likely to cause him serious prejudice.

The tribunal may, if the facts so warrant, extend the provisional measures referred to in the first paragraph for a period of not more than 30 days. It may also, if exceptional circumstances so warrant or if the parties consent to it, order a second extension of those measures for a period of not more than 30 days.

Furthermore, if the tribunal comes to the conclusion that the security or development of the child is in danger but it is not yet able to make the order provided for in section 91, it may order, as part of provisional measures, that the child be entrusted to an alternative living environment or may extend the measures taken under the first and second paragraphs.

An order made under the third paragraph may not exceed six months, including the duration of any measures taken under the first and second paragraphs.

The tribunal shall inform without delay the parents of a child for whom a measure is taken under this section."

51. Section 81 of the Act is amended by inserting "or emancipation" after "tutorship" in the third paragraph.

52. 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, articles 54, 72, 82, 142, 145 to 147, 153 to 157, 166, 170 to 178, 180 to 183, 217 to 230, the first paragraph of article 232 and articles 246 to 252, apply, with the necessary modifications. For the purposes of article 74, the time limit is five days. The

application of articles 148 to 152 is determined by regulation of the Minister of Justice.

Chapter III of Title I of Book IV, Title III of that Book, and Title IV of Book V of that Code also apply in the same manner."

53. 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. The Chief Judge may extend that time limit for serious reasons.

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."

54. Section 91 of the Act is amended

(1) in the first paragraph,

(*a*) by inserting "or to a kinship foster family" at the end of subparagraph *e*;

(*b*) by replacing "chosen by the institution operating a child and youth protection centre" in subparagraph *j* by "excluding a kinship foster family, chosen by the institution operating a child and youth protection centre in accordance with section 62";

(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".

55. 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* 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* 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."

56. 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* or".

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

58. Section 96 of the Act is amended by replacing subparagraph *k* of the first paragraph by the following subparagraph:

"(*k*) the Public Curator, with regard to the record of the tribunal kept under sections 70.0.1 to 70.6."

59. 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.

60. Section 101 of the Act is amended by inserting "the Public Curator," after "Commission,".

61. Section 102 of the Act is amended by inserting ", if applicable," after "transmission of the record and".

62. 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 of the decision or order.

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."

63. 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" by "of the district in which the decision was rendered".

64. 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."

65. Section 109 of the Act is amended by inserting "or notification to" after "service on".

66. Section 110 of the Act is repealed.

67. Section 112 of the Act is amended by inserting "or quash" after "uphold" in paragraph *a*.

68. Section 115 of the Act is amended by striking out "of that Court or".

69. 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 under article 40 of the Code of Civil Procedure (chapter C-25.01)".

70. 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."

71. 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".

72. Section 129 of the Act is amended

(1) by inserting "82, 84, 85, 92, 94, 94.1," after "Sections";

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

73. 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."

OTHER AMENDING PROVISIONS

CIVIL CODE OF QUÉBEC

74. 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

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

"Despite the first paragraph, the provisions relating to custody and placement of persons under 18 years of age

(1) cease to apply to a person 18 or 19 years of age if the director of youth protection and the director of a detention centre agree that it is preferable, in the interest of that person or in the interest of the persons staying in a facility referred to in article 7, that the person be entrusted to the director of that detention centre; and

(2) do not apply to a person 20 years of age or more."

76. 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".

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

77. 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."

78. 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 HEALTH SERVICES AND SOCIAL SERVICES

79. 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, a child designated by name may also be recognized as a foster family, in particular as a kinship foster family."

ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES FOR CREE NATIVE PERSONS

80. 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, 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.

81. 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

82. 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.

83. 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)."

TRANSITIONAL AND FINAL PROVISIONS

84. The director of youth protection must, not later than (*insert the date that is one year after the date of coming into force of section 32 of this Act*), send the Minister of Health and Social Services all the records in the director's possession regarding the adoption of a child domiciled in Québec by a person domiciled outside Québec.

85. 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 10 of this Act*) and dealing, in particular, with one or more elements provided for in section 37.6 of the Youth Protection Act (chapter P-34.1), enacted by section 10, is considered to have been entered into under that section 37.6 only for the elements provided for in that section.

86. 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 27, 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).

87. 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 20 and 55, the situation of a child who, on (*insert the date of coming into force of paragraph c.2 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) provisional measures aimed at entrusting a child to an alternative living environment remain governed by the former Act if an order concerning such measures is executory on (*insert the date of coming into force of paragraph c.2 of section 1 of the Youth Protection Act, enacted by paragraph 1 of section 1 of this Act*);

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

(4) appeals to the Court of Appeal for which an application for leave to appeal has already been presented remain governed by the procedure set out in the former Act.

88. The provisions of this Act come into force on (*insert the date of assent to this Act*), except paragraph 1, to the extent that it enacts paragraph *c*.2 of section 1 of the Youth Protection Act, and paragraphs 2 and 3 of section 1, sections 2 to 5, 8 to 11, 13, 15 to 29, 38 to 40, 46, 50, 51, 54 to 56, 58, 74, 77 to 81 and 84 to 87, which come into force on the date or dates to be set by the Government.