



# OUR CHILDREN'S SECURITY IS OUR RESPONSIBILITY

## The Youth Protection Act

What do we need to know  
and what can we do?

Brochure intended to  
First Nations families of Quebec

2015 Version





The author of this guide was inspired in part by the brochure titled:

## “YOUR CHILD WAS REPORTED TO THE DYP: What do you need to know now?”

published in 2008 by the Government of Quebec. The document includes amendments to the Youth Protection Act in force since July 9, 2007.

The children appearing in this guide are extras.

AUTHOR - Lisa Ellington (first version: Martine Côté)

COLLABORATORS - Marie Noël Collin, Annie Hervieux and Pascal Plamondon-Gómez

GRAPHICS - Carine Bourget

REVISION - First Nations of Quebec and Labrador Health and Social Services Commission (FNQLHSSC) with the authorization of the Ministère de la Santé et des Services sociaux of Quebec

The masculine gender used in this document represents women as well as men.


Legal Deposit: 2015

Bibliothèque et Archives nationales du Québec/Library and Archives Canada

ISBN: 978-1-926528-61-8

Reproduction in part or in full of this document is authorized, however the source must be mentioned.

© FNQLHSSC 2015



*This brochure is intended to all First Nations community members, more specifically to families. It is a tool to promote awareness and provide information on the amendments to the Youth Protection Act and their impacts.*

Traditionally, our ancestors used to promote family values and community care in our traditional way of life and children played an important role in terms of our survival and subsistence. With the introduction of reserves and the *Indian Act*, our lifestyle has changed dramatically. We have become dependent on the government and we must now deal with many social issues. We must find solutions together and support each other in order to find solutions to these problems which weigh heavily on our children, our families and our communities. We need to, more than ever before, adapt our lifestyle to protect our children. We need to find ways to come together and make our communities more autonomous through our solidarity.

**The purpose of this guide is to provide information for families, communities and our administration on the situation of our children. It also aims at explaining certain provisions of the Youth Protection Act and highlighting the importance of relying on first-line services to obtain help in case of difficulties. This guide is also intended as a tool for raising awareness about individual and collective responsibility toward our children.**

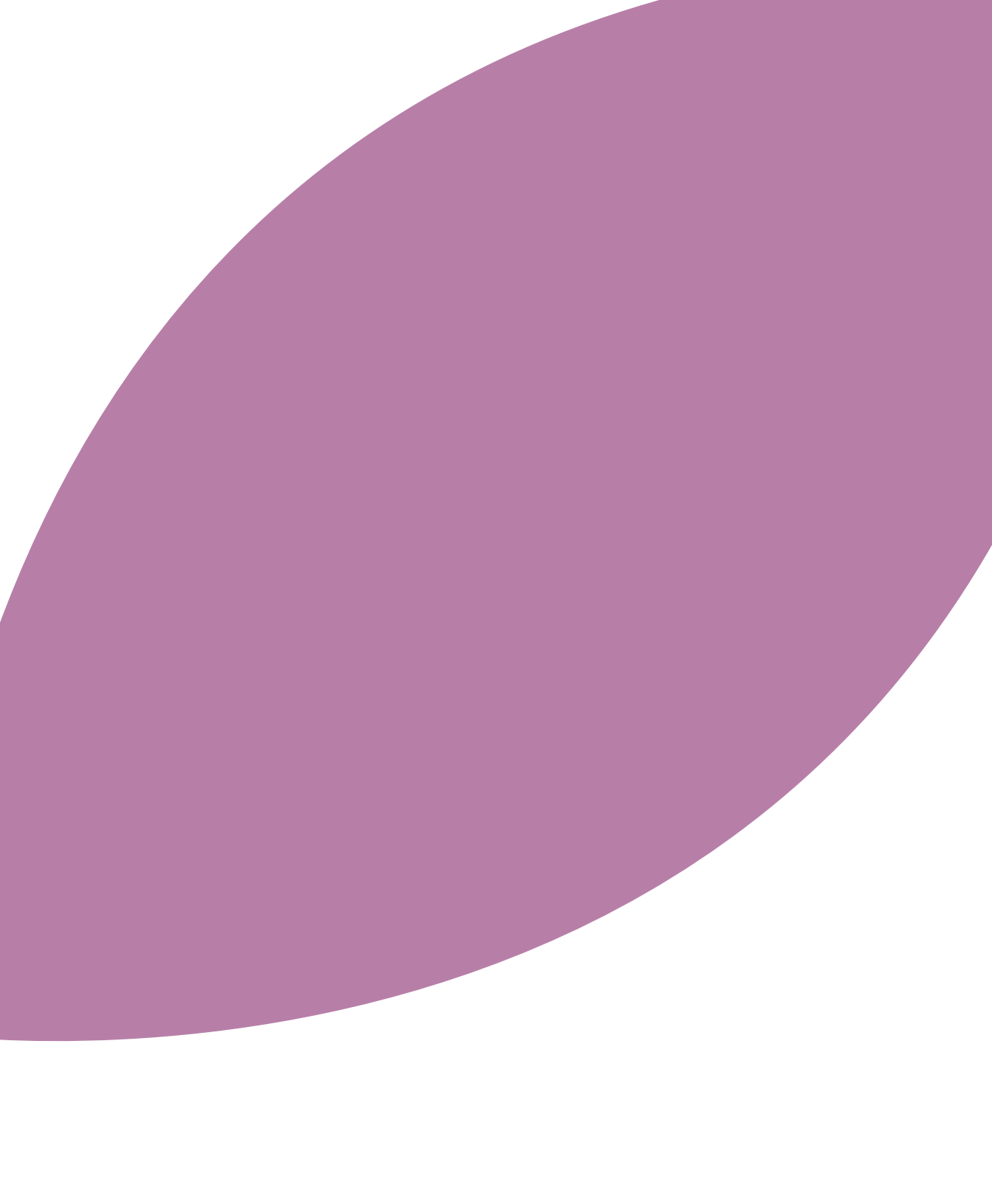
**History shows that we're the only ones who can solve our problems. We must therefore look after our own situation, because only we have the tools, knowledge and desire to do so...**



# TABLE OF CONTENTS

Did you know?	5
What are your responsibilities as parents?	6
Do you know about first-line services?	7
What can you do if you need help?	9
What is the Youth Protection Act?	10
Why does the Youth Protection Act apply in my community?	11
How do the modifications (changes) to the Youth Protection Act concern me?	12
What is the extended family and significant persons?	15
Maximum Placement Period, what does this mean?	16
What is a permanent life plan?	20
Placement in a foster family until the age of majority as a life plan	21
What is Sponsored Tutorship?	22
Adoption	23
A life plan oriented toward autonomy targeting the youths 16 years and over	25
What are your rights and those of your child?	26
You are entitled to all the necessary assistance to ensure the return of your child	28





## *DID YOU KNOW?*

- Aboriginal children are reported 3.5 times more than non-aboriginal children;
- Neglect is the most frequently reported problem;
- Aboriginal children are taken into care by the Youth protection services 5 times more than non-Aboriginal children;
- The rate of Aboriginal children placed by the DYP is almost 4 times higher than for non-Aboriginal children.<sup>1</sup>

**“As community members, we all have an important role to play in our children’s protection.”**

---

<sup>1</sup> Trajectory analysis of First Nations youth subject to the Youth Protection Act, Summary Report, March 2013.

# WHAT ARE YOUR REponsibilities AS PARENTS?

In Quebec, two laws recognize that parents are primarily responsible for their children:

- o **The Civil Code of Quebec (C.c.Q.)**
- o **The Youth Protection Act**

The Civil Code of Quebec (C.c.Q.) stipulates that parents have the rights and duties of custody, supervision and education as well as the responsibility to feed and care for their children. This is called parental authority; in other words, parents must ensure that the children have a home and that they will receive the necessary care for their development. They also have the responsibility for providing for their children in order to ensure their health and safety. The Code also mentions that the parents are responsible for the child until he comes of age or is fully emancipated<sup>2</sup> (a minor who is considered of age and who can legally accomplish the same actions that adults do).



The Youth Protection Act also recognizes that parents have the primary responsibility for the care, maintenance, education and supervision of their child.

This means that even though you may be experiencing problems and that your child is placed, you remain as parents, primarily responsible for your child. It is your duty to maintain contact and affectionate ties with him, demonstrate interest in him, visit him according to stipulation established visitation rights by the Youth Court and to provide the clothing he needs, etc.

---

<sup>2</sup> Emancipation is acquired through marriage or by a Quebec Superior Court judgment (art. 175 and 176 of the Civil Code of Quebec).

# DO YOU KNOW ABOUT FIRST-LINE SERVICES?

First-line social services are offered as part of the First Nations child and family services to support parents, children and families in the communities by way of overall preventive and culturally-adapted services.

*The objectives of these services are to:*

- **prevent and reduce the rate of reported cases and the number of cases in which the authorities (DYP) take over responsibility for the child;**
- **prevent and reduce the number of placements;**
- **provide support before the family situation worsens;**
- **develop parents', children and communities' strengths and skills.**

These services are offered on a voluntary basis and are accessible to youth and families in the community. You can begin or stop a first-line monitoring process at any time. Caseworkers can support you, intervene in a crisis situation, provide tools and advice, etc. First-line services in your community can also provide social workers, psychologists or educators to guide you and support you in your efforts;

First-line services also work with partners inside or outside the community that can support you in your personal or family process.

The DYP's intervention is no longer the only option for receiving services to help children and families in the community.

However, it is important to remember that the safety of your child is paramount and that in some situations, intervention from the DYP may be necessary.





## WHAT CAN YOU DO IF YOU NEED HELP?



- The first thing to remember is that your child's interest is the main goal and that his security and development in a stable environment must be ensured;
- Even if your child must be placed, it is important to keep him in the community in order to protect his culture, language and origins; do not hesitate to call upon your family, friends or other people in the community;
- You can contact your community's Health Center and/or first-line services as soon as you or your child are experiencing difficulties;
- It is better to prevent and get the help you need before a report is filed and a placement done;
- You can also obtain assistance and services by going to the nearest CLSC, because they have a population-based responsibility (which means they have an obligation to meet the needs of the people in their area, even if your community has first-line services).

*As parents, you must be ready to get involved and work with the first-line services workers, to find solutions, so your child may remain in his family.*

# WHAT IS THE YOUTH PROTECTION ACT?

The Youth Protection Act only applies when the child's security and/or his development is compromised. It is therefore a law for exceptional situations, which is to say of last resort.

*When we talk about compromising situations, we mean:*

- Abandonment;
- Neglect;
- Psychological ill-treatment;
- Sexual abuse;
- Physical abuse;
- Serious behavioural disturbance.

*The following may also be considered as compromising situations:*

- When a child runs away;
- When a child does not attend school;
- When the parents do not carry out their obligations during the year the child is entrusted to a resource or is placed in a foster family pursuant to the Act respecting Health Services and Social Services (AHSSS).

*It is important to remember that this law doesn't automatically apply because you're having difficulties.*

# WHY DOES THE YOUTH PROTECTION ACT APPLY IN MY COMMUNITY ?

*This is a complex question. Many people think that based solely on the fact that being a First Nation member and living on reserve, only the **Indian Act** would apply. Not so when it comes to youth protection. Why is that?*

The *Constitution Act, 1867*<sup>3</sup> determines that the federal government has exclusive legislative authority on all matters relating to “the Indians and the lands reserved for the Indians,”<sup>4</sup> that is to say that only the federal government can enact laws applicable to First Nations living on “reserve.” This same law however, also mentions that the Provinces have the exclusive power to enact laws applicable to civil rights,<sup>5</sup> which includes youth protection. Hence, all provincial laws of general application apply to First Nations, regardless of their place of residence.



---

3 30 & 31 Victoria, c. 3 (U.K.)

4 Article 91(24) *Constitution Act, 1867*

5 Article 92(13) *Constitution Act, 1867*

# HOW DO THE MODIFICATIONS (CHANGES) TO THE YOUTH PROTECTION ACT CONCERN ME?

Important changes were made to the Youth Protection Act and are in effect as of July 9, 2007.

*The amendments to the Youth Protection Act aim several objectives, including:*

1. To promote consistency and stability for the child (each child needs consistent relationships, affection, and lifestyle conditions appropriate for his needs and age on a continuous basis);
2. To promote active participation of the child and the parents, so that they play an active role in decisions and measures that concern them (as parents, you must take part in decisions concerning your child, and work at concretely improving your situation, and in finding solutions to the problems that led to the child's reporting);
3. To ensure that the State's intervention in families life occurs only under exceptional circumstances.

*Specifically, the following amendments were introduced:*

- The notion of the extended family or significant person;
- Maximum placement periods;
- The notion of permanency;
- Sponsored tutorship.



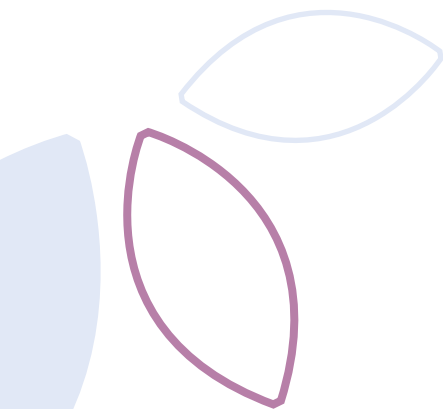




## WHAT IS THE EXTENDED FAMILY AND SIGNIFICANT PERSON?

If placement measures must be carried out, the DYP can recommend that your child be placed with members of the extended family or with persons that are significant to him. These persons can be the grandparents of your child, his uncles, aunts, cousins, etc. These persons can also be a family friend or a community member. In order to avoid repeatedly moving a child, it is better that this person expresses interest from the onset of a placement situation and shows interest in being involved over the long term with your child in the event that placement is longer than expected.

*When children are entrusted to individuals who share the same values, they will likely be "more comfortable and not have to experience a painful separation from their parents because they will be living in a comfortable environment and contact with parents will be more frequent in most cases."*<sup>6</sup>



# A MAXIMUM PLACEMENT PERIOD, WHAT DOES THIS MEAN?

When the situation of your child requires a placement in a foster family or group home or other institution, there is now a limit of time inside which the decision to return your child or not to the home must be taken.

During this period you must remedy the compromising situation that led to the report to the DYP so that your child may return to live with you. On the other hand, the DYP is responsible for promoting ongoing contact between you and your child. When your child is placed, it is vital that you maintain a relationship with him! It is the period where parents must do everything they can to cooperate and access services to improve their situation.

*The time limit varies according to your child's age:*

Child's age	Under 2 years	2 to 5 years	6 years or over
Maximum Placement Period	12 months	18 months	24 months



This means that if your child is 2 years old or younger when placed, you will have a maximum of 12 months to correct the situation. If the child is between 2 and 5, you will have 18 months; if the child is 6 or older, you'll have 24 months.

After this period of 12, 18 or 24 months (as applicable), if your child's safety or development is still an issue and returning your child to the family is not possible, the case will be submitted to the Court (Court of Quebec, Youth Division). Taking into account the interests and needs of your child, the Court shall subsequently rule to provide **permanent** stability for the child. This is called a life plan.

### *The Court can:*

- Take into account your child's past placements (as part of the Youth Protection Act) in order to calculate the maximum duration of placement;
- Make a decision to ensure a permanent life plan for your child before the end of the maximum placement period.

### *The Court may also issue an order to extend the period of 12, 18 and 24 months if:*

- Your child is expected to return to your family over the short term;
- It is in your child's best interest;
- For serious reasons such as services were not provided.





# WHAT IS A PERMANENT LIFE PLAN?

When your child is placed by the DYP or when he is likely to be removed from his family environment, the Youth Protection Act stipulates that a life plan must be developed for your child, to ensure a stable lifestyle and that his basic needs are met. At this time, the caseworker assigned to you will inform you of the life plans:

- **The privileged life plan is to maintain your child in his family environment.**
- If this is not possible, the DYP will assess the possibility that your child be returned to your family following a placement period.
- If your child's situation is still compromised following the placement period; the DYP will examine the possibility of placing your child with people who are most significant in his life. The DYP will then evaluate with you and your child of 14 years and over the options that will provide him with a more stable lifestyle.

*If the child's remaining with or returning to his parents is not possible, other life plans are:*

- Placement with a significant adult, until the age of majority ("kinship care placement");
- Placement with a foster family, until the age of majority;
- Adoption;
- Tutorship;
- Life plan based on autonomy and targeting 16 years old youths and over;
- The placement of the child in a resource offering specific care until the age of majority (i.e.: for intellectual disabilities).

# PLACEMENT IN A FOSTER FAMILY UNTIL THE AGE OF MAJORITY AS A LIFE PLAN

When it has been determined that your child cannot stay with you, the DYP may, for the development and stability of your child, seek a foster family for placement until your child is 18. If it is in your child's best interest and a foster family is available in your community, this alternative will be considered. The DYP can also opt for a foster family from another community or region, in consideration for proximity between you and the selected resource.

Remember, unless the Court limits your responsibilities, you continue, as parents, to assume your parental responsibilities. **You are responsible for all the major decisions concerning your child.**

## *Major decisions include:*

- o Registering your child in school;
- o Signing for a driver's license;
- o Signing for a passport;
- o Authorizing travel outside Canada;
- o Authorizing cigarettes, "body piercing," tattooing or practicing extreme sports;
- o Authorizing taking contraceptives for a child under the age of 14;
- o Authorizing the issuing of a hunter's certificate.



# WHAT IS SPONSORED TUTORSHIP?

The Youth Protection Act introduced tutorship as a permanent life plan. This allows an adult to ensure the protection of a minor child and his belongings, **while acting as the parental authority** (without being the biological parent of the child, the tutor has legal authority to make decisions in his name in order to ensure his protection).

This permanent life plan gives your child an opportunity to maintain his filiation ties (you remain the parents) and if interested, the child can continue to nurture relationships with his family and the community. Tutorship can be a more acceptable solution for you as parents, as it helps avoid a complete break of filial ties with your child, as it is the case with adoption. Where possible, you may even be consulted in the choice for your child's tutor. The Court may also order that contact be maintained with the child or the extended family.

The tutor also has access to financial assistance to help meet the child's needs, until the child comes of age. It is important to note that the tutorship ends at 18 years of age.

*Once a tutor is appointed by the Court and the child is entrusted to the tutor, the DYP's intervention ends.*



# ADOPTION

When your child is placed and that it is improbable that he will ever be returned to his family, the DYP may consider adoption as the best possible life plan. **Unlike tutorship, adoption will break all filiation ties with your child. You will no longer have any responsibility (parental authority) or any rights with respect to your child.**

If you consent to the adoption of your child, youth protection will need to make sure you understand the consequences thereof: from this point on, only the new parents shall make the decisions for the child's well-being and you will no longer have authority over these decisions. However, after giving your consent, if you change your mind, you shall have 30 days to make a change.

If you do not consent to the adoption of your child, the DYP may address the matter to the Court (Court of Quebec, Youth Division) for a declaration of eligibility for adoption, if he so considers adoption to be a life plan that best meets the interests and needs of your child. This judgment will determine whether or not your child is eligible for adoption.

In addition, any child 10 years or older must consent to the adoption. If a child under the age of 14 refuses to be adopted, the Court may still order adoption, considering the best interest of the child. However, when a child is 14 or older and refuses adoption, any possibility of adoption is therefore eliminated, even if it is in the child's best interest.

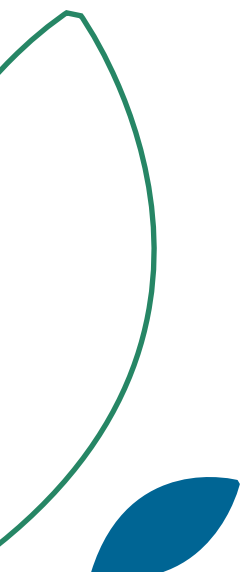




# A LIFE PLAN ORIENTED TOWARD AUTONOMY TARGETING THE YOUTHS 16 YEARS AND OVER

The *centres intégrés de santé et de services sociaux (CISSS)* or the *centres intégrés universitaires de santé et de services sociaux (CIUSSS)* are responsible for ensuring that youths 16 years of age and over become fully autonomous when the DYP's intervention ends, which is to say when they come of age. However, as a parent, you remain responsible for your child, unless the courts decide differently.

These young adults will therefore have to assume full responsibility for their own life (maintaining a home, managing their finances, etc.), and develop the skills that will lead to employment while accessing by themselves, the resources they will need in their daily lives. This life plan can be carried out under different settings such as group homes or supervised apartments.



# WHAT ARE YOUR RIGHTS AND THOSE OF YOUR CHILD?

## *The right to be consulted*

You and your child have the right to be consulted at each step of the youth protection process and give your opinion on potential solutions.

## *The right to be informed*

You and your child have the right to be informed by the DYP of each step in the process and regarding the protective measures chosen to remedy the situation. The DYP must also ensure that the information provided is clear and appropriate to your level of understanding.

## *The right to be heard*

You have the right as much as your child does, or anyone else wanting to act in the interests of the child (e.g. grandparents), to share your opinion with the DYP and the Court.

## *The right to guidance*

When you require information or need to meet with the DYP, your child and you have the right to guidance and assistance from a person of your choice. This means that if you present a request that doesn't go against the child's best interest, you can be accompanied by a first-line worker from your community, a friend, a spouse, etc. This person is there to support you and comfort you, to help you ask questions, to participate in finding solutions, etc. However, this person does not represent you and doesn't act on your behalf.

## *Access to the child's records*

You and your child (14+ years of age) can have access to the child's records, except in certain circumstances.

## *The right to a review or make a claim to the Court*

As your child, you can ask the Court to review a decision or order, if new facts have occurred since the original decision. You can also petition the Court if you do not agree with the decisions made by the DYP (in terms of the child's endangerment, during orientation or revision, etc.). In this case, you must file an application to the Court and a person who works there can help you do it.

## *The right to file a complaint*

If you are not satisfied with the services you have received or if you believe that your rights have been violated, you can file a complaint with the local Commission of the CISSS or the CIUSSS. A person from the Commissioner's office will contact you and the concerned parties within 45 days, to inform you of the outcome and recommendations.

If you think that your rights and those of your child have not been respected, you can also file a complaint to the *Commission des droits de la personne et des droits de la jeunesse* (CDPDJ).

## *The right of refusal*

If you do not agree with the DYP's decisions, you, as well as your child have the right to refuse. In this case however, the matter may be referred to the Court for further evaluation.

## *The right to the services of a lawyer*

As parents, you have the right to consult a lawyer of your choice, be assisted and represented by him throughout the intervention. Your child has the same right.

If your situation meets the criteria of admissibility to legal aid, you will be able to access the services of a lawyer free of charge. If your income exceeds the admissible minimum wage, a financial contribution could be required. However, social assistance or social security beneficiaries are automatically accepted at legal aid.

# YOU ARE ENTITLED TO ALL THE NECESSARY ASSISTANCE TO ENSURE THE RETURN OF YOUR CHILD

Throughout the intervention of the DYP, and most specifically during the whole placement of your child, you must have access to and make use of all the necessary assistance and the support of the Department of Health and Social Services of your community. However, you must acknowledge the situation and be prepared to actively become involved and work with the case worker(s) to find solutions in order to remedy the situation and to deal with the difficulties.

## *In summary:*

- If you need help, there are many available resources.
- Do not hesitate to reach out for help.
- Your child will not necessarily be placed because you are experiencing difficulties.
- Prevention is a better solution than protection.

## *For further information, please contact:*

- First-line social services in your community
- Youth protection services in your community (if existing)
- The CISSS or CIUSSS of your region
- *The Commission des droits de la personne et des droits de la jeunesse* (CDPDJ)







## First Nations of Quebec and Labrador Health and Social Services Commission

250, place Chef-Michel-Laveau, Suite 102  
Wendake (Quebec) G0A 4V0  
Telephone: 418-842-1540  
Facsimile: 418-842-7045  
[www.cssspnql.com](http://www.cssspnql.com)