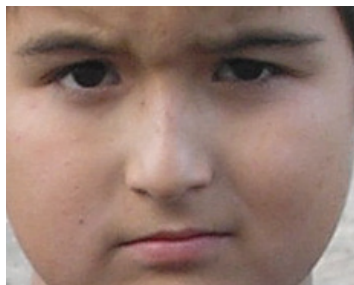


OUR CHILDREN'S SECURITY IS OUR RESPONSIBILITY



PROTECTING OUR CHILDREN



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

Brochure intended to First Nations families of Quebec

The author of this guide was inspired in part by the brochure titled “ON A SIGNALÉ LA SITUATION DE VOTRE ENFANT AU DPJ : Que devez-vous savoir maintenant?” YOUR CHILD WAS REPORTED TO THE DYP: What do you need to know now?” published in 2008 by the government of Québec. The document includes admendments to the Youth Protection Act in force since July 9, 2007.

The children appearing in this guide are extras.

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

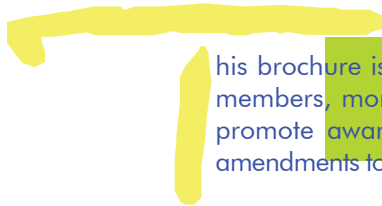
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WARNING: The content of this brochure is a vulgarisation of the *Youth Protection Act* and addressed to an audience with no legal training.

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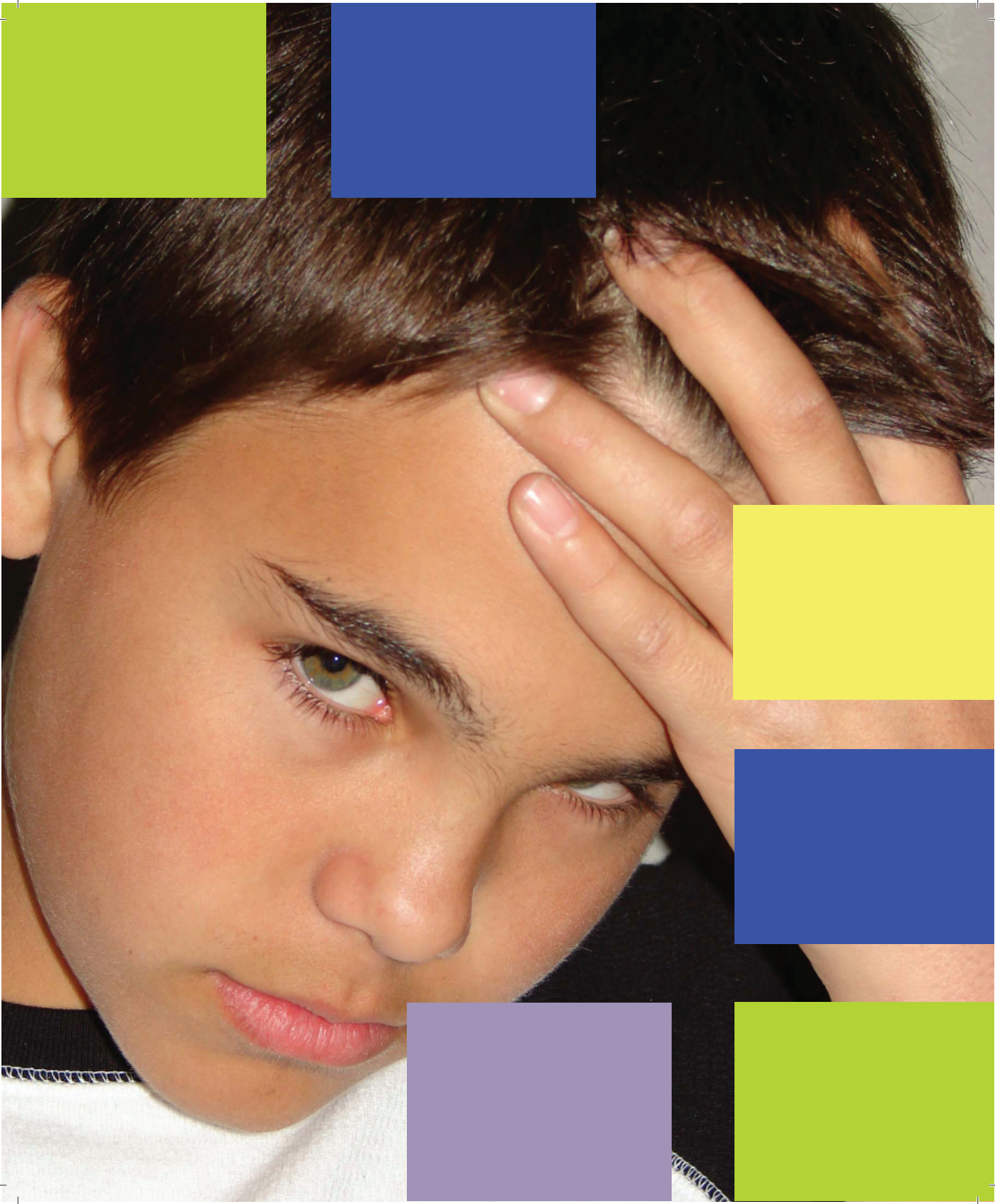
This brochure is intended to all First Nation community members, more specifically to families. It is a tool to promote awareness and provide information on the amendments to the Youth Protection Act and their impacts.

Traditionally our ancestors promoted the concept of family and community care according to our traditional lifestyle and the role children played was one of huge importance to our survival and livelihood. However with the establishment of reserves and the Indian Act our way of life has changed dramatically; suddenly we became dependent on government for our survival, and we now find ourselves plagued by social problems that are affecting our children and families. Now more than ever we have to adapt our lifestyles once again to find successful solutions to address our problems and help protect our children and find ways to unite and empower our communities in solidarity.



The purpose of this guide is to provide information to families, communities and leaders on the status of our children and the impacts that youth protection interventions has had on our communities, to promote awareness, to work collectively in finding solutions, and to support one another in addressing these problems which are seriously affecting our children, families and communities! This guide is also a sensibilization tool about our individual and collective responsibilities we have towards our children.

History shows that no one can resolve our problems. As such, once again we have to take charge since we are the only ones with the tools, knowledge and the desire to do so...



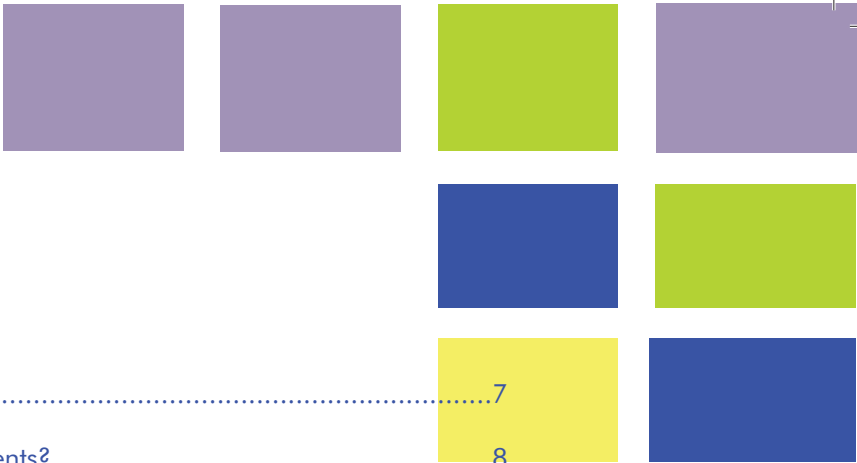


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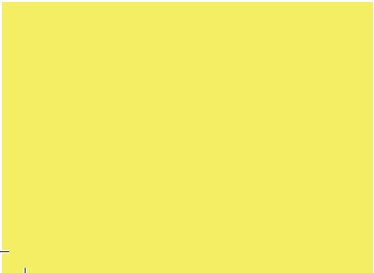
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Did you know?

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- Aboriginal children are reported to the Director of Youth Protection (DYP) 3.5 times more than non-aboriginal children;
- Aboriginal children are taken into care by the Youth Protection 5 times more compared to non-Aboriginal children.
- The number of Aboriginal children placed by the Director of Youth Protection (DYP) is 3 to 3.5 times higher than that of non-Aboriginal children¹.

"As community members, we all have an important role to play in our children's protection".

1) Comparative chart (Aboriginal and non-Aboriginal, based on reports AS-480 and AS-480(A), MSSS, March 2009.



What are your responsibilities as parents?

That which holds us responsible for our children is found in the following two laws:

- The *Québec Civil Code* (C.c.Q.)
- The *Youth Protection Act*

The *Québec Civil Code* (C.c.Q.) stipulates that parents have the right and the guardianship duty of supervision and education as well as the responsibility to feed and care for their children (this is called parental authority, in other words, to ensure that the children have a home, that they are fed, that they be able to grow and develop, and that the parents will be able to meet their needs in order to ensure their health and security). The Code also mentions that the parents are responsible for the child until he comes of age or is emancipated² (a minor who is considered of age and who can legally accomplish the same actions that adults do).

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Therefore, the *Youth Protection Act* (YPA) 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.

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



Do you know about 1st Line Services?

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To prevent the placement of your child and the intervention of the Youth Protection Director, certain communities presently offer 1st Line Services to parents, youth and families in order to support them in crisis situations, by providing advice, tools to cope with difficulties, etc. These services are meant to provide help before the situation deteriorates beyond control and above all to avoid the placement of your child.

The implementation and use of 1st Line Services will allow you and your child, providing you are willing, to obtain services designed to address the problems you may be experiencing, and allow your child access to services adapted to your culture and community environment. These Services will be able to intervene sooner, through an individual or collective approach.

As a result, the interventions of the Director of Youth Protection would no longer be the sole access route to accessing services for troubled community children and families. Keep in mind though that the interest, security and development of the child is still the main objective, and that in certain situations, the Youth Protection Act may deem it necessary to apply protective measures.

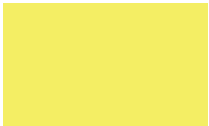
However, the interest of your child is Paramount!



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;
- It is important to keep your children within the community, even if a placement is required, in order to protect and preserve their culture, language, origins and heritage;
- Do not hesitate to contact your community's Health Center and Social 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;
- If 1st Line Services are available in your community, do not hesitate to use them;
- The Health Center and Social Services in your community can offer you help from social worker, psychologist or educators to orient and accompany you in your healing;
- If these services are not available in your community, you may access them through the nearest HSSC (Health and Social Services Centers must provide services to all Québec residents);
- As parents, you must be ready to get involved and work with the 1st Line Services workers, to find solutions, so your child may remain in his family.

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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 of particular instance, 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 Health and Social Services Law (HSSL).



Why does the Youth Protection Act (YPA) apply in my community?

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

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The *Constitutional Law of 1867*³, determines that the federal government has exclusive legislative authority on all matters relating to “the Indians and the lands reserved for the Indians”⁴, 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 rights⁵, which includes youth protection.

However Section 88 of the *Indian Act*⁶ permits applying provincial law if it is generally in application (a law that does not apply to a particular group of individuals, ie: *The Bees Law*, that only applies to Beekeepers), in force in a province to apply to Indians living on reserve. This means that the *Youth Protection Act*⁷ applies in First Nations communities.

3) 30 & 31 Victoria, ch. 3 (R.-U.)

4) Article 91(24) 1867 Constitutional law

5) Article 92(13) 1867 Constitutional law

6) L.R., 1985, ch. I-5

7) L.R.Q., chapter P-34.1





How do the modifications (changes) to the Youth Protection Act (YPA) concern me?

Important modifications (changes) have been brought to the Youth Protection Act and have been in effect since July 9, 2007.

The amendments to the YPA are aimed at several objectives, some of which are:

1. To promote consistency and stability for the child (each child needs consistent relationships, affection, and lifestyle conditions appropriate for his needs and age and this 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 family life occurs only under particular instances.

Specifically, the following amendments were introduced:

- The notion of the extended family or significant person;
- Maximum placement periods;
- Long Term Stability Plan;
- Funded tutorship.



What is the extended family and significant persons?

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 of the parents, etc. These persons can also be a family friend or a community member. The important thing is that this person knows your child, has maintained regular positive contacts with him, and that positive affectionate ties exist between them. The person must also be willing to involve herself on a long term basis with your child.



Maximum Placement Period, what does this mean?

When the situation of your child requires a placement in a foster home 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. This 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

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For example, if your child is under 2 years old when he is placed, you have a maximum of 12 months to regulate the problem. If you have not been able to correct the problem and that your child has been in placement for 12 months, then the Director of the Youth Protection (DYP) could apply the Long Term Stability Plan developed for your child, until he comes of age. It is important to note here that

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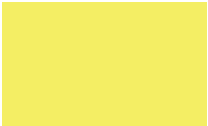
only the Court (Youth Chamber of the Quebec Court) can issue such a ruling. This same principle applies to children aged between 2 to 5 years old, you will have 18 months to remedy the situation and finally for children aged 6 years or over, when placed, you will have 24 months to change the situation.

Furthermore, the tribunal (Youth Chamber of the Quebec Court) can also consider any previous placements of your child (according to the Youth Protection Law) to determine the maximum placement periods. The law also permits the courts also at all times within the delay of 12, 18 and 24 months, if the security and the development of the child is still compromised, to render a decision assuring the continuity of the care and the stability of the last according to his needs, and this on a permanent basis.

However, the courts can also render a decision to prolong the delays of 12, 18 and 24 months if:

- The return of your child to the family is conceivable on a short term basis;
- If it is in the interest of the child;
- For more serious motives, the foreseen services could not have been rendered.

Therefore, once the 12, 18 or 24 month period (depending on the case) of the placement has expired, the court can decide that the child's return to your family is impossible if his security or his development is still compromised. In order to ensure a stable life environment for your child, the Youth Courts will decide to officially implement a Long Term Stability Plan.





What is a Long Term Stability Plan?

When your child's situation is reported to the Director of Youth Protection (DYP) and the report is retained, where immediate protective measures are required; the Act stipulates that a Long Term Stability Plan must be developed and implemented for the child, to ensure a stable lifestyle and that his basic needs are met. At this time, the case worker assigned to you will inform you of the Long Term Stability Plans:

- The primary aim 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; possibly with a significant person;
- If your child's situation is still compromised following the placement period; the DYP will examine the feasibility 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.

When the child's support or return among the family is not possible, other life projects are:

- Placement with a significant adult, until the child comes of age;
- Placement with a foster family, until the child comes of age;
- Adoption;
- Tutorship;
- Long term stability plan based on autonomy and targeting 16 years old youths and over;
- The placement of the child until he comes of age in a resource that offers specific services (i.e.: for the mentally challenged).



*Placement in a foster care home
until the child comes of age
as a Long Term Stability Plan*

Once it has been determined that your child cannot live with you until he comes of age, the DYP can, to ensure the child's stability and development, use the services of foster families in the community or the Youth Protection Centers for a placement until he comes of age. However, as parent, you keep your parental responsibilities even if the foster home assumes his daily needs.

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What is Sponsored Tutorship?

The *Youth Protection Act* introduced tutorship as a permanent Long Term Stability 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 Long Term Stability Plan enables the child to maintain his filial ties with you (you remain his parents) and if it is in his best interest; maintain his ties with his family, his extended family and his community. The tutorship can be a more acceptable solution for you as parents, as this prevents a complete break of filial ties with your child, as is the case with adoption.

Where possible, you may even be consulted in the choice for your child's tutor. If it is in the child's best interest, the Youth Court can order that ties be maintained with you or with his extended family. If this is the case, the tutor is under the obligation to respect this Court order.

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 the tutorship ends, the intervention of the Director of Youth Protection ends as well.





Adoption

When your child is placed and that it is improbable that he will ever be returned to his family, the Director of Youth Protection, in order to ensure the child's stability, can consider adoption as the best Long Term Stability Plan. Adoption will sever all filial ties with your child, meaning that you will no longer have any responsibilities (parental authority), nor any rights towards him.

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The Youth Protection worker will ensure that if you consent to your child's adoption, you fully understand the resulting consequences: notably the fact that from now on, only the adoptive parents will be able to make all the necessary decisions to ensure your child's well-being, and that you no longer have any authority over him. You do however have 30

days to withdraw your agreement to adoption. Also, all children of 10 years old or over must consent to adoption. If a child younger than 14 years old refuses to be adopted, the court can render an ordinance of adoption if it is in the interest of the child to be adopted. Finally, when a child of 14 years old refuses to be adopted, this renders all possibly of adoption impossible even if this is contrary for his interest.

If you do not consent to the adoption of your child and if your child is taken in charge by the DYP, and if adoption meets his needs, the Director of the Youth Protection (DYP) could request the courts (Youth Chamber of the Quebec Court) to obtain a declaration of admissibility for adoption. This judgement will confirm that your child can be adopted at the expiration of the period of 30 days.

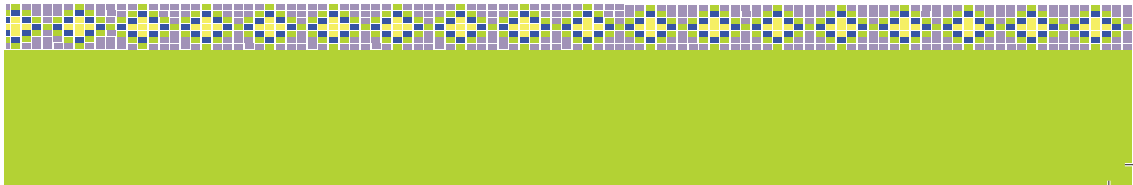


*The Long Term
Stability Plan geared
on autonomy and
targeting the youths
16 years and over*



The Youth Centers 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 their own volition, the resources they will need in their daily lives. The long term stability 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 in 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 Director of Youth Protection (DYP) of each step in the process and regarding the protective measures chosen to remedy the situation.

The right to be heard

- You and your child have the right to present your approach to the DYP and the courts.

The right to guidance

- When you require information or need to meet with the Director of Youth Protection (DYP), your child and you have the right to guidance and assistance from a person of your choice.





The right to lodge 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 lodge a complaint with the local Commission of the Centre jeunesse. 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 make a complaint to the Human Rights Commission and Youth Protection (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 Youth Courts 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 out there.**

Do not hesitate to reach out for help.

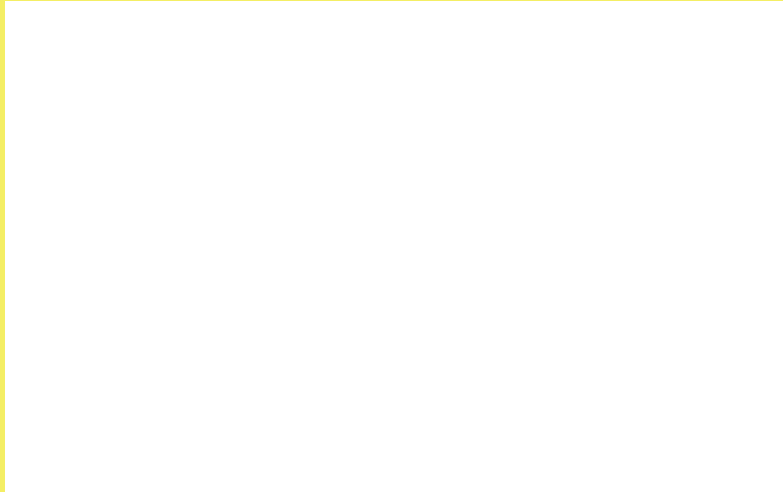
**Your child will not necessarily be placed
because you are experiencing difficulties.**

Prevention is a better solution than protection.





For additional information about your community 1st Line Services, please contact your local Health and social services center in your community. The 1st Line services responders will be able to help you.



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