



SPECIAL COMMISSION ON THE RIGHTS OF THE CHILD AND YOUTH PROTECTION

Information document for citizen
and professional forums

January and February 2020

Commission spéciale
sur les droits des enfants
et la protection
de la jeunesse

Québec 



TABLE OF CONTENTS

A WORD FROM THE PRESIDENT OF THE COMMISSION	3
THE SPECIAL COMMISSION ON THE RIGHTS OF THE CHILD AND YOUTH PROTECTION: “A WILLINGNESS TO ACT FOR OUR CHILDREN”	4
The Commission's mandate	4
“A willingness to act for our children”	4
Extensive expertise	4
Participating in the work of the Commission	5
Participatory forums	5
RIGHTS OF THE CHILD AND YOUTH PROTECTION	7
Children's and youth's rights in Québec	7
Internationally	7
In Québec and Canada	7
Specific rights of children in the <i>youth protection system</i>	8
FOUR ISSUES RELATED TO CHILDREN'S RIGHTS AND YOUTH PROTECTION	9
Issue 1 — Prevention	9
Issue 2 — Youth pathways	10
Issue 3 — Legal framework and judicial process	11
Issue 4 — Governance and conditions of practice	12
APPENDIX	13
Appendix 1 / Steps taken by the Director of Youth Protection (DYP)	13
Appendix 2 / Chronology of milestones concerning the <i>Youth Protection Act</i>	15



A WORD FROM THE PRESIDENT OF THE COMMISSION

A shock wave rolled through Québec back in May. The government committed itself to engaging in a reflection on youth protection services, on the applicable legislative framework and on the role of courts, social services and other stakeholders. The Special Commission on the Rights of the Child and Youth Protection was created as the vehicle for this process of reflection.

Together, the commissioners have decided to take all the steps necessary for conducting a thorough review of the system. Accordingly, we have put in place a variety of consultation methods to give a voice to all citizens, particularly those concerned by youth protection services: children and youth who have experienced negligence, mistreatment or abuse; families who need help to cope with the difficulties of life; professionals working in the various networks who must deal with situations of increasing emotional, professional and administrative complexity; and experts who work with the system.

We are taking bold and courageous action so that, together, we can ensure a better future for our children. Participative forums are being held across Québec so that we can meet with you and hear what you have to say. All of us share a concern for our children's welfare; they are our greatest treasures. We all bear the responsibility of respecting children's rights and of ensuring their protection, their future and their wellbeing. Together, through our combined efforts, interest and consideration, we can make our society a better place for our children.

Thank you for your interest in the work of the Commission and for responding to our invitation to these public consultations. We can bring about meaningful change by working together.

Régine Laurent

President of the Special Commission
on the Rights of the Child and Youth Protection

THE SPECIAL COMMISSION ON THE RIGHTS OF THE CHILD AND YOUTH PROTECTION: “A WILLINGNESS TO ACT FOR OUR CHILDREN”

On April 30, 2019, Québécois were shaken by the death of a seven-year-old girl in tragic circumstances. In the aftermath, serious concerns were raised about children's welfare, the state of Québec's youth protection system, and the support provided to vulnerable children and families.

One month later, the Québec government launched a Special Commission on the Rights of the Child and Youth Protection, headed by Régine Laurent.

The Commission's mandate

The Commission's mandate is wide-ranging: it includes the **organization and funding of youth protection services**; the evolution of practitioners' **working conditions** and **clinical practices**; the current **legislative framework** and its application, including the *Youth Protection Act*; the **role and responsibilities of public agencies** (health and social services, education, public security, justice, family) and their partners; and the organization and operating methods of the youth protection **tribunals**.



“A WILLINGNESS TO ACT FOR OUR CHILDREN”

First and foremost, all children and youth—particularly those who are the victims of negligence, mistreatment or abuse—are at the very heart of the Commission's mission. Its efforts are made with the objective of acting in children's best interests, ensuring their rights are respected and enabling every aspect of their development. It does not have the power to settle specific cases.

The Commission must submit its report and recommendations to the Québec government by November 30, 2020.

Extensive expertise

Twelve commissioners are pursuing the Commission's mandate, including president **Régine Laurent**, a nurse by training and former president of the Fédération interprofessionnelle de la santé du Québec, **André Lebon**, vice-president, a psychoeducator who has been working with troubled youth for close to 50 years, and **Michel Rivard**, vicepresident, a judge at the administrative tribunal of Québec who has been a counsel at the youth protection branch for more than 25 years.

Four members of the Québec national assembly occupy commissioner roles: the member for Marguerite-Bourgeoys, **Hélène David**, the member for Laurier-Dorion, **Andrés Fontecilla**, the member for Repentigny, **Lise Lavallée**, and the member for Duplessis, **Lorraine Richard**.

There are five additional commissioners who have varied expertise in children's rights and youth protection: **Gilles Fortin**, a pediatric neurologist and honorary member of Sainte-Justine Hospital; **Jean Simon Gosselin**, general counsel at the Centre jeunesse de Québec up to 2014; **Lesley Hill**, youth program director at the Centre-Sud-de-l'Île-de-Montréal Integrated University Health and Social Services Centre up to 2019; **Jean-Marc Potvin**, deputy CEO at Centre-Sud-de-l'Île-de-Montréal Integrated University Health and Social Services Centre up to 2019; and **Danielle Tremblay**, youth protection director for Saguenay–Lac-Saint-Jean up to 2016. **Michelle Fournier**, special education advisor, rounds out this team of experts.

Participating in the work of the Commission

In order to compile the most accurate and complete picture of the current situation, and to hear the points of view and recommendations of individuals, organizations and experts from as many areas as possible, the Commission has set up several consultation vehicles: public and closed hearings, the provision of testimonials via email or telephone or by submitting a brief, and, lastly, more than 40 participatory forums for members of the public and professionals working with youth.

Participatory forums

The Commission is travelling around Québec from January 14 to February 13, 2020, to hear from **citizens and professionals** who work with youth on a daily basis.

- **Twenty-one citizen forums**, open to all, allow members of the public to talk about the main issues and challenges pertaining to children's rights and youth protection. The names of participants will not be made public and contributions will be handled confidentially.
- **Twenty-one forums for professionals who work closely with children, youth and their parents** are being held at the same time as the citizen forums, but in separate spaces. They are dedicated to people working in health, social services, education, early childhood, justice, public security and community organizations. The names of participants will not be made public and contributions will be handled confidentially.

Each forum is an opportunity to hold discussions on consultation topics in small groups. Participants are invited to weigh in on the issues and challenges within the youth protection system presented in this document. The goal is not to gather individual testimonies, but rather to foster collective reflection. This document is intended to help you develop your reflections in preparation for these activities.

The forums are aimed at reaching the following objectives:

- Facilitate the appropriation and understanding of the challenges linked to children's rights and youth protection.
- Allow participants to formulate and debate findings and proposals related to specific challenges.
- Allow participants to prioritize certain proposals.
- Identify overall trends and the united or conflicting points of view, as applicable.
- Define a shared vision when it comes to the youth protection system.
- Inform the discussions and recommendations of the Commission to the Québec government.

These consultations are essential to helping the Commission fulfil its mandate. The information gathered from these forums will be compiled and analyzed. This will be added to the evidence used by the Commission to formulate observations and recommendations.

FORUM SCHEDULE

Citizen forum: 6:00 p.m. to 9:00 p.m.

Professional forum: 6:30 p.m. to 9:30 p.m.

14 janvier 2020 Granby	January 15, 2020 Drummondville	January 15, 2020 Montréal (in English)	January 16, 2020 Trois-Rivières
January 16, 2020 Laval	January 21, 2020 Québec	January 21, 2020 Saint-Jérôme	January 22, 2020 Sainte-Marie (Beauce)
January 22, 2020 Montréal (cultural communities)	January 23, 2020 Longueuil	January 23, 2020 Châteauguay	January 28, 2020 Alma
January 29, 2020 Chibougamau	January 30, 2020 Joliette	February 3, 2020 Montréal	February 3, 2020 Rouyn-Noranda
February 4, 2020 Gatineau	February 11, 2020 Rimouski	February 12, 2020 Gaspé	February 13, 2020 Baie-Comeau
		February 12, 2020 Îles-de-la-Madeleine – citizens (6:30 p.m. local time) (videoconference)	February 13, 2020 Îles-de-la-Madeleine – professionals (6:30 p.m. local time) (videoconference)

To learn more about the scheduling and location of the forums, and to sign up, visit: www.csdepj.gouv.qc.ca/forums

About the INM

The INM has been selected to organize and lead these forums.

The INM is an independent, non-partisan organization that promotes citizen participation in the democratic life of Québec.

The INM encourages citizen participation and contributes to the development of civic competencies, the strengthening of social bonds and the development of democratic institutions. The INM team is inspired by the belief that citizen participation reinforces democracy.

For more information: www.inm.qc.ca (French-only site)



RIGHTS OF THE CHILD AND YOUTH PROTECTION

/ CHILDREN'S AND YOUTH'S RIGHTS IN QUÉBEC

People in Québec under the age of 18 hold certain rights that they can assert. These rights are set out in various legal instruments enacted by Québec, Canadian or international authorities. All of these instruments recognize the need to afford special protection to children and youth. Certain rights apply specifically to children and youth in the youth protection system.

Internationally

The United Nations (UN) has adopted instruments protecting the rights of children. The principal instrument is the *Convention on the Rights of the Child*, which was adopted in 1989 and came into effect in 1990. Another such instrument is the *United Nations Declaration on the Rights of Indigenous Peoples*, which provides certain rights to indigenous children.

In Québec and Canada

Children's rights in Québec are guaranteed by two principal instruments: the *Civil Code* and the *Québec Charter of Human Rights and Freedoms*.

The *Civil Code* provides that every child has a right to the protection, security and attention that his parents or the persons acting in their stead are able to give to him. The *Québec Charter* provides the same protection in addition to provisions for non-discrimination (for example, due to language, skin colour, physical ability, etc.), and the right of access to certain educational services at no cost.



For more information: *Civil Code of Québec*:

<http://legisquebec.gouv.qc.ca/en/showdoc/cs/ccq-1991>

For more information: *Charter of Human Rights and Freedoms*:

<http://legisquebec.gouv.qc.ca/en/showdoc/cs/C-12>

Specific rights exist for indigenous children. For example, the *Declaration of the Rights of First Nations Children*. In addition to reaffirming the rights set out in other instruments, this declaration sets out specific rights such as the right of children to know their history, culture, language, traditions and philosophy and to benefit from positive adult role models.



For more information: *The Declaration of the Rights of First Nations Children*

<http://www.cssspnql.com/docs/default-source/centre-de-documentation/affiche-declaration-droits-enfant-pn-rognée-fr.pdf?sfvrsn=0%20>

The *Youth Criminal Justice Act* applies when a child aged 12 years or under commits a criminal offence. Among other things, this Act provides for an adaptation of the criminal justice system for young persons.



For more information: The Youth Criminal Justice Act
<https://www.laws-lois.justice.gc.ca/eng/acts/Y-1.5/index.html>

/ SPECIFIC RIGHTS OF CHILDREN IN THE YOUTH PROTECTION SYSTEM

In Québec, the *Youth Protection Act* applies when a child is exposed to a situation that threatens their security or development.

This Act requires that all decisions be made in the child's interest and that parents have primary responsibility for the care of their children. It also sets out the situations in which the State must intervene because a child's security or development may be compromised, as well as the conditions in which the DYP intervenes in families' lives. It also guarantees the rights of children from the time the DYP enters their life until the end of the intervention, when their security or development is no longer compromised, or until the age of 18.

The rights set out in the *Youth Protection Act* include:

- the right to be **heard**;
- the right to be **consulted** and **prepared** when the child is transferred from one foster family to another or from one rehabilitation centre to another;
- the right to receive **education, physical health, psychological** and **social services** tailored to their situation throughout the DYP's intervention;
- the right to be **accompanied by the person of their choice** in certain situations;
- the right to **communicate confidentially** with their entourage when placed with a rehabilitation centre or a foster family;
- the right to **disciplinary measures** that meet **certain rules**;
- the right to be placed in an environment that **meets their needs**;
- the right to have their DYP file kept **confidential**.

Throughout the intervention, the various parties involved in the system (the DYP, stakeholders, judges, lawyers, etc.) must make decisions that take several important principles into account. For example:

- the **child's interests**;
- the **notion of time**, which is not the same for children;
- the **child's characteristics**: language, culture, aboriginal community membership, handicap, etc.;
- the child's need for **stability**;
- the child's right to **participate in decisions** that concern them, according to their age and level of maturity;
- the parents' participation.



For more information: The Youth Protection Act
<http://legisquebec.gouv.qc.ca/en/showdoc/cs/P-34.1>

FOUR ISSUES RELATED TO CHILDREN'S RIGHTS AND YOUTH PROTECTION

As part of the forums, the Commission would like to promote the discussion of four main issues: **prevention**; **youth pathways** and **development**; the **legal framework** and **judicial process**; **governance** and **conditions of practice**.

Issue 1 — Prevention

Prevention is better than cure. This saying also applies to youth protection. Well before the intervention of the Director of Youth Protection (DYP) is necessary¹, several social programs, public services and community organizations—related specifically to health and social services, education, justice, public security and families—may act to support vulnerable children and their families, and thus prevent negligence or abuse.

Avenues of reflection for the forums:

The effects of social inequality

- Is respect for children's rights and youth protection everyone's business or a parental responsibility?
- Is the level of intervention by the various health and social service organizations adequate to ensure the development and growth of all children?
- Does poverty and its effects on families and their children increase the risk of their being taken into youth protection services?
- How can public services—health and social services, education, public security, justice, families and their partners—help to reduce vulnerability among children and their families?

Focusing on prevention

- What is the role of social services, schools, childcare providers, community organizations and other youth protection-related public services?
- How can we foster more effective cooperation among these various public services?
- How can the youth protection system inspire greater trust among children, youth and their parents?

The cycle of abuse

- Are children who have had a difficult life sufficiently supported so that they can avoid repeating with their own children the same behaviours that they themselves experienced?
- Can long-term support for families prevent the recurrence of abuse or negligence from one generation to another?

¹ See Appendix 1 Intervention of the Director of Youth Protection

Issue 2 — Youth pathways

The pathways of youths in the youth protection system sometimes consist of a brief episode of services, whereas in other cases, they may continue until a child reaches the age of majority. This may involve one or more placements in a host environment. These various trajectories comprise a number of issues, including youths' development, stability, strength of relationships, secure and long-lasting attachment to significant adults, and transition to adulthood.

Avenues of reflection for the forums:

Youth development

- What are the main factors that contribute to the development of troubled youths?
- What are the characteristics of a good host environment?
- Do we listen enough to youths who have been in youth protection?
- What mechanisms can be implemented to ensure that youths' needs and points of view are taken into account?

Stability and strength of relationships

- Up to what point should biological parents and extended family be the first choice to provide a stable environment to youth?
- How can we help ensure that young people in youth protection have more stable life projects and fewer transfers?

Transition to adulthood

- How can adolescents who have been in the youth protection system or who are faced with social problems be better supported when they reach adulthood?
- Do individuals who have been in the youth protection system have access to adequate resources when they reach the age of 18?
- How can we ensure a smooth transition for youth who have benefited from specialized health and social services, once they have reached the age of majority?

Issue 3 — Legal framework and judicial process

The best interests of the child and the participation of youth—principles set out in the *Youth Protection Act*—are at the heart of the intervention process and the judicial process.

Avenues of reflection for the forums:

The best interests of the child

- Should the child's best interests and their right to grow up in a secure, stable and loving environment take precedence over the parents' right to keep their children?
- Should the parents' rights be contingent on their ability to adequately meet their child's needs?

The participation of youth in the judicial process

- Are children and adolescents sufficiently familiar with their rights to effectively make their needs and opinions known?
- How should youth's opinions be taken into consideration in decisions that concern them?

The obligation to report all forms of abuse

- Does the public understand its obligation to report all situations of physical and/or sexual abuse to the DYP?
- What obstacles prevent the public from reporting situations of abuse?

The judicial process

- Is the court's power to intervene in the lives of children and their families understood by the public?
- Are the courts overused (over-judicialization of cases) in matters of youth protection?
- Is the judicial process associated with a child's youth protection pathway in the child's best interest?
- Can the representation of children and adolescents in the judicial process be improved?

Issue 4 — Governance and conditions of practice

The governance of the youth protection system and the conditions of practice of its workers influence the quality of the services provided to children, youths and their families. The system's organizational structure, the training of workers, and their working conditions are further crucial issues to examine.

Avenues of reflection for the forums:

Organizational structure

- Should youth protection be better promoted and recognized as a major mission of the Québec government?
- Does integrating youth protection into the CISSS/CIUSSS allow better access to services for children and families?
- Does the organization of youth protection services foster an optimal continuum of service for children and adolescents?
- Is there a need for better cooperation among the various public networks (health and social services, education, justice, police, family services, etc.)?

Training of professional staff

- Does the training (initial and ongoing) provided to professionals enable them to meet the needs of youth and the increasingly complex situations they are faced with?
- Does the training (initial and ongoing) provided to professionals facilitate the provision of high-quality services to children and their families?
- How can best practices be communicated more effectively among the various professionals who work with children and their families?

Work and professional practice conditions

- Do the working conditions of professionals (including workload, oversight, clinical support, independence, recognition, etc.) enable them to provide high-quality, adapted services in a timely manner to children and their families?
- Are professionals' work and practice conditions adequate?



APPENDIX

/ APPENDIX 1 / STEPS TAKEN BY THE DIRECTOR OF YOUTH PROTECTION (DYP)

The DYP must intervene to protect a child in situations where that child's security or development is in danger, under the powers conferred upon it by the Youth Protection Act. The steps taken by the DYP, which generally take place when a situation is reported, are as follows:

Step 1 — The report is received and processed

A situation analysis is done after a report is received. The DYP can then decide whether or not to follow up on the report, based on the information it has. If the DYP decides to follow up the report, a more thorough assessment must then be completed.

The DYP of Québec handled 105,644 reports in 2018–2019. Of these, 41,530 were selected for follow-up. Since 2016–2017, the number of reports selected for follow-up has increased by 15.4%.

Step 2 — The child's situation is assessed

Files selected by the DYP for further action are assessed according to the following criteria:

- the **nature, seriousness, duration** and **frequency** of the reported facts;
- the child's **age** and **personal characteristics**;
- the parents' **ability** and **willingness** to correct the situation;
- the **local resources** that could provide help to the child and the parents.

When the DYP believes the child's safety or development is compromised, the DYP must intervene to ensure the child's protection by determining the measures to take to remedy the situation. If the child requires emergency protection, the DYP must put immediate protective measures in place which could involve removing the child from his family environment.

Step 3 — Choice of protective measures

The DYP may decide between two options:

- sign a **voluntary measures agreement** or a **short-term agreement** with the parents—and the child if he or she is over the age of 14;
- **with recourse to the court.**

Step 4 — Protective measures are applied

Following a voluntary measures agreement or a court order, the parents and the child will, periodically, meet with a youth protection officer who will help them implement measures to correct the situation.

These protective measures range from keeping the child in the family environment with help, advice and assistance to placement in foster care (extended family members, foster family, rehabilitation centre, etc.).

An intervention plan is developed by a professional in collaboration with the parents and the child. The plan sets out the needs of the child and the parents, the desired objectives, the methods used and the duration of the services to be provided to the child and the parents.

Step 5 — The situation is reviewed

The child's situation must be reviewed regularly by the DYP, who may decide:

- to **put an end to the intervention** if the child's security or development is no longer in danger;
- to **propose a new agreement** on voluntary measures or refer the situation to the court;
- to **revise or extend** the protective measures.

Step 6 — The intervention is brought to an end

The DYP's intervention ends:

- if the child's security or development is no longer considered to be in danger;
- when the child turns 18.

Step 7 — The DYP acts as liaison with resources

When the DYP puts an end to the intervention, the parents and the child may still be in need of help. If so, the DYP must help them by providing information about the resources in their community that can help them and tell them how to access those resources.

If the parents agree—and if the child agrees if he is over the age of 14—he may also:

- advise them and personally refer them to these resources by making the initial contact;
- forward any relevant information about their situation to the resources in question.



For more information about the steps taken by the Director of Youth Protection

<https://www.quebec.ca/en/family-and-support-for-individuals/assistance-and-support/steps-taken-by-the-dyp-when-a-situation-is-reported>

/ APPENDIX 2 / CHRONOLOGY OF MILESTONES CONCERNING THE YOUTH PROTECTION ACT ²

1951	Québec's first youth protection legislation is enacted. Parental authority is transferred to the State and all youth protection interventions are now judicialized.
1979	The <i>Youth Protection Act</i> comes into force.
1982	Several difficulties in the application of the <i>Youth Protection Act</i> were noted at the beginning of the 1980s. The government creates a special roving parliamentary commission to analyze the problems raised and to propose corrective measures.
1984	Following this commission, the <i>Youth Protection Act</i> recognizes four principles: upholding the child's best interests and respecting the child's rights; the primacy of parental responsibility; keeping the child in their family environment; and the need for prevention and for community participation.
1989	The United Nations Convention on the Rights of the Child is adopted by the UN General Assembly. The <i>Youth Protection Act</i> relaxes rules regarding children's testimony. Publication of the first <i>Youth Protection Act</i> reference manual, which sets clinical practices for youth protection.
1992	The Ministère de la Santé et des Services sociaux and the Ministère de la Justice create a working group headed by justice Michel Jasmin to analyze the application of the <i>Youth Protection Act</i> in Québec and the <i>Young Offenders Act</i> .
1993	Centres de protection de l'enfance et de la jeunesse (child and youth protection centres) merged with centres de réadaptation pour jeunes en difficulté d'adaptation (rehabilitation centres for youths with adaptation difficulties) into centres jeunesse (youth centres) combining psycho-social expertise with rehabilitation expertise.
1994	Coming into force of the new Civil Code of Québec, which withdrew the right of parents to use "moderate and reasonable" correction with their children.
1995	The Commission des droits de la personne et des droits de la jeunesse (human and youth rights commission) is created from the merger of the Commission des droits de la personne (human rights commission) and the Commission des droits de la jeunesse (youth rights commission).
2000	Publication of the Clair report of the Commission d'étude sur les services de santé et les services sociaux (study committee on health and social services), the recommendations of which included investing \$20 million per year, over five years, to consolidate basic youth and child services.
2002	The Civil Code allows persons of the same sex to adopt children.
2003	Coming into force of the <i>Youth Criminal Justice Act</i> , which replaces the <i>Young Offenders Act</i> .
2007	Coming into force of the amendments to the <i>Youth Protection Act</i> through Bill 125. The objective of these amendments is to foster continuity and stability for children, promote children's and parents' active participation in decisions and the choice of measures; ensure that state intervention in family life is done on an exceptional basis; reconcile child protection and privacy; modernize judicial processes; and set out guidelines for the exceptional use of foster care in intensive support units.
2017	Coming into force of the amendments to the <i>Youth Protection Act</i> through Bill 199. This bill revises various aspects of the YPA. It harmonizes the concept of foster family by introducing the concept of kinship foster family. It introduces rules to foster the involvement of Native communities and the preservation of the cultural identity of Native children. Measures are also introduced to foster existing agreements or make new agreements involving parents and their child. 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.
2019	The Special Commission on the Rights of the Child and Youth Protection is created to foster a major reflection on youth protective services in Québec, the applicable legislative framework, the role of the courts, social services and the services offered by various partners.

² Excerpt from a document produced by CIUSSS du Centre-Sud-de-l'Île-de-Montréal. For the complete timeline, see: CIUSSS du Centre-Sud-de-l'Île-de-Montréal. "La protection des enfants au Québec au fil du temps : chronologie des événements marquants de la Loi sur la protection de la jeunesse," 2019.



IT'S YOUR TURN TO SPEAK!

The Special Commission on the Rights of the
Child and Youth Protection is ready to listen

*Commission spéciale
sur les droits des enfants
et la protection
de la jeunesse*

Québec 

INM / INSTITUT DU
NOUVEAU MONDE

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