About this guide

More and more people go to court without a lawyer. That's why the Québec Bar Foundation has prepared guides called *How to prepare for court*.

These guides offer information that helps people understand the main steps of the legal process. They also help the reader make informed decisions about the choices they will face.

The information in this guide only applies to youth protection cases that go to court.

Since 1978, the Foundation has worked for the advancement of law and supported young legal professionals to help create a fairer society.

Primarily funded by private donations, the Foundation can count of the support of its Governors, its donors, its partners and succesful fundraisers to accomplish its mission.

Working in a collective spirit, open to the community and attentive to its needs, the Québec Bar Foundation helps unite people and aspires to be at the heart of a legal community committed to the future of law.

To learn more about the Foundation and the free publications it offers, visit its website: www.fondationdubarreau.qc.ca.

FONDATION BARREAU DU QUÉBEC
Pour l'avenir du droit

How to prepare for court

For youth protection cases

This guide contains general information about current Québec law and is not meant to provide legal advice or a legal opinion.

We've used the following guidelines to keep the text simple:

- The word "child" can refer to one or more children. It can also refer to children of all ages, from babies to teenagers.
- The word "parent" can also refer to a legal guardian.

Legal deposit – Bibliothèque nationale du Québec, 2024
Legal deposit – Bibliothèque nationale du Canada, 2024
Last update : August 2023
ISBN 978-2-923946-12-2 (PRINTED)
ISBN 978-2-923946-13-9 (PDF)

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A guide that doesn't apply in all cases

Only for youth protection

The information in this guide only applies to youth protection cases that go to court.

A youth protection hearing has its own objectives, rules and procedures. This guide is not meant for you if your case is related to:

- adoption.
- custody, emancipation, tutorship or the exercise of parental authority.
- a criminal or penal case against your teenager.

Only for the Youth Division

Not all courts follow the same procedures.

This guide is meant for cases that will be heard by a judge from the Youth Division (part of the Court of Québec).

If you want to appeal a judgment, your case will be heard in Superior Court. The rules and procedures that apply to appeals are different from those described here, so this guide is not meant for you.

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Protecting youth… and families

As a parent, you are the main person responsible for your child. Maybe your family and community can give you a hand. These are all good things.

But the DYP might still need to intervene. You're well aware of this, because it's now part of your life.

It's important for you to know that the DYP does not want to destroy your family. In fact, the opposite is true. Its goal is to make sure that every child in Québec is safe and that their rights are respected.

And the DYP needs your help to make this possible.

Nothing is decided in advance

The DYP wants to work with you, not against you. Together, you must find solutions to fix the problems, and it's never too late.

If you don't succeed, a judge will have to act.

Don't worry, the judge is impartial. They're not on the DYP's side, nor on your side. That means they will pay as much attention to your arguments as to those of the DYP. The judge has not yet decided who is right and who is wrong.

The DYP and the judge must listen to you and your child. They must take your point of view into account. They must also involve you in the decisions that concern your family.

It's their obligation and their duty. After all, everyone working together is what's best for the child.

You're important

When the DYP intervenes in your family life, that doesn't mean that you lose all your rights. In fact, DYP caseworkers must help you exercise your rights with your child.

You are the main person responsible for your child's welfare. And even if the DYP has removed your child from your care, you keep your rights.

You're not on trial

The DYP is not putting you on trial. Its actions are meant to help your child, not to harm you.

In fact, the DYP must make sure you receive services with respect and that your rights are ensured.

The DYP must give you useful tools and support. Once the situation has improved, it will disappear from your lives.

Asking a lawyer for help… or not

You have the right to a lawyer

But it’s not an obligation.

Nobody can force you to get a lawyer. You can represent yourself in court.

But you can’t ask a family member or a friend to act for you in court. It’s either you or a lawyer. No one else.

Please note that the DYP will be represented by a lawyer. If you choose to act alone, you will be dealing with a professional who knows the appropriate rules of law and procedure. Any information they give you must be true, but you can’t count on their advice or assistance, because their job is to defend the DYP’s case.

Your child will also have their own lawyer. Again, that lawyer cannot represent or advise you.

Do you want a lawyer, but don’t know any? Groups and associations of lawyers provide referral services by area of law and by region. For more information, consult the “Referral Services” section of the Barreau du Québec website. You can find it by typing “Referral services Barreau du Québec” in a search engine like Google. You can also contact the *Association des avocats et avocates en droit de la jeunesse* at 514-278-1738.

Having a lawyer doesn’t mean you did something wrong

Having a lawyer is both a right and a choice.

Nobody will think that you’ve done something wrong simply because you’re represented by a lawyer. Not even the judge.

Even if you don’t believe you should have to defend yourself, a lawyer can guide you through the whole process. They can reassure you, advise you, and make sure your rights are respected.

It’s never too late to get a lawyer… almost!

You thought that you didn’t need a lawyer, but you’ve changed your mind?

It’s normal to ask for help. You can even do it after the judicial process has started.

Of course, the sooner the better.

All lawyers want to represent their clients as well as possible. They need time to become familiar with the case. If you wait until the last minute to contact a lawyer, they may have to ask the judge to postpone the hearing.

Too expensive? Options to consider

You might not have enough money to pay a lawyer. Whether by force or by choice, you can act for yourself throughout the process.

Without a lawyer, you'll have to complete all the tasks explained in this guide on your own.

Laws and rules of procedure can be hard to understand, and you might quickly feel lost. It's important to know that they apply equally to everyone. Unfortunately, the court won't treat you differently if you represent yourself. You'll have to find out what rules to follow, understand these rules and respect them.

Before concluding that you don't have enough money for a lawyer, have you considered the following options?

- Legal aid.
- A brief consultation or specific mandate with a lawyer.
- Referral services.

1. Legal aid

You might be entitled to legal aid, which lets you be represented by a lawyer paid for by the government.

To find out if you are eligible, contact your local legal aid center, or consult the Commission des services juridiques website at csj.qc.ca/commission-des-services-juridiques/lang/en

If you're eligible, you can be represented by a legal aid lawyer, or by a lawyer in private practice who accepts legal aid mandates. It's your choice! But you can't choose the lawyer who will represent your child.

2. A brief consultation or specific mandate with a lawyer

If you're working alone on your case or representing yourself in court, you can still consult a lawyer, even if only for a few hours.

This can be especially useful at the start of the process, but you can ask for this type of help at any time. If you have limited resources, choose a moment that will give you the most value for your money.

You can also consult a lawyer briefly to find out how much it would cost for them to represent or assist you, either for the whole case or a portion.

Talk with a lawyer to find out if it's possible to negotiate their fees. In some cases, a lawyer might agree to work for a fixed fee or accept other terms that make things easier for you.

3. Referral services

Some referral services offer an initial consultation for free or at a low cost.

You can learn more about these services on the Barreau du Québec website (in the Find a lawyer menu option) at barreau.qc.ca/en

Understanding the DYP's intervention

The caseworker's double role

You may have already noticed that the DYP caseworker has two very different roles.

Sometimes, you might feel that they're working against you. But at other times, they seem to want to help you, because they explain what's going to happen and take the time to answer your questions.

That's normal, because it's their job. Both of these roles are equally important.

They must establish if your child is at risk

When a report has been accepted by the DYP, a caseworker must assess the situation. They must then use their best judgment to decide if the child's safety or development is at risk.

If the caseworker believes your child is at risk, they have to act, even if you believe that they are wrong.

They must inform you

The caseworker must give you and your child all relevant information. They must talk to you and make sure you understand everything they say.

Don't forget that the DYP caseworker is not working against you. Their job is to keep children safe.

The first steps

Immediate protective measures

Urgent measures

The DYP can take immediate protective measures if they believe that they must act quickly to protect a child.

Here is a short list of measures that can be taken by the DYP. There can be others as well.
The DYP can:

- immediately remove a child from where they live and place them in a youth center, with a foster family, or with anyone else with whom they will be safe.
- prevent a child from contacting certain people (and those people from contacting the child).
- limit a child's contact with their parent.
- prevent a parent from putting their child in contact with certain people (the parent's partner, for example).
- keep a child with their parent, but with conditions (not drinking or doing drugs, for example).

Urgent measures can be taken at any point in the process.

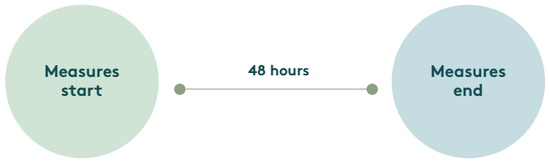
The DYP decides

The DYP can take these measures even if you don't agree. They don't need to ask a judge for permission. But they must keep you informed.

For a maximum of 48 hours (2 days)

Immediate protective measures can only last a maximum of 48 hours.

If the 48 hours would end on a Saturday, Sunday or legal holiday, they can be extended until the next workday.



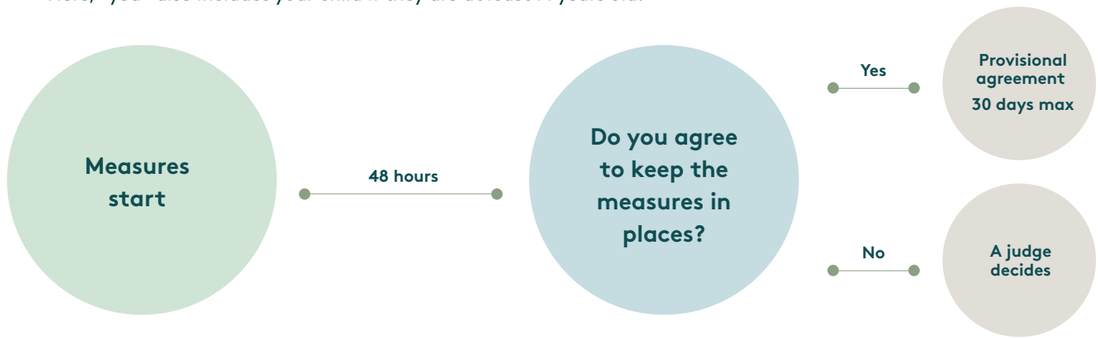
Extending the measures (with a provisional agreement)

After the 48 hours are up, the DYP might decide it's best to continue the immediate protective measures.

If you* agree: The DYP can keep the measures in place. You must sign a **provisional agreement** to extend the measures for a maximum of 30 days.

If you* DON'T agree: The DYP must get permission from a judge to extend the measures. This means that there will be a court hearing. The measures can be extended for a maximum of 5 workdays.

* Here, "you" also includes your child if they are at least 14 years old.



Agreeing with the measures doesn't imply that you believe your child is at risk

Accepting an extension of the immediate protective measures doesn't mean that you think that the safety or development of your child is at risk.

In other words, neither the DYP nor the judge are allowed to conclude that you agree with the DYP's assessment of the situation simply because you accept the measures.

You can end the provisional agreement at any time.

Agreement on voluntary measures

What it is

It's a sort of contract. The goal is to put measures in place to protect the child. For that to happen, everyone must collaborate and find an agreement.

If the agreement is respected, it won't be necessary to go to court.

Two conditions must be respected to sign an agreement on voluntary measures with the DYP:

1. You must acknowledge the problems.
2. You must agree to take all necessary actions to correct the situation.

If your child is at least 14 years old, they must also accept what is set out in the agreement.

Signing the agreement (or not)

The DYP can't force you to accept the measures they propose. They must be accepted freely, without pressure or threats.

You should know that any measures imposed by a judge won't necessarily be stricter.

When you accept an agreement proposed by the DYP, you must sign it within 10 workdays (around two weeks). Ask your caseworker exactly how long you have to sign it.

Do not sign the agreement if:

- you don't acknowledge the problems raised by the DYP.
- you don't believe the measures proposed by the DYP are reasonable.

Are you unsure what to do? A lawyer can advise you as you decide whether to sign the agreement. A single meeting can be enough to help you understand your options. This type of consultation can be covered by legal aid if you're eligible. But it's important to know that your lawyer can't accompany you to a meeting with the DYP.

The length of the agreement

An agreement on voluntary measures can last up to 12 months (one year), but it can be extended.

It can be modified as often as needed.

If ever you don't agree with the measures anymore, you have the right to cancel the agreement. But it's likely that the DYP will take the case to court if they believe that the situation hasn't been fixed.

In cases of domestic violence

The DYP must respect no-contact orders made by the court against a violent partner.

If this is your situation, you won't have to take part in a meeting where your partner is present. Any measures taken must also respect the no-contact order: you won't be forced to communicate with them.

Even if your partner has not been given a no-contact order, you can ask for your meetings with the DYP to take place without them present. You can also ask that voluntary measures not force you into contact with them.

Agreement on short-term intervention

What it is

An agreement on short-term intervention is similar to an agreement on voluntary measures. But it's appropriate for situations that can be fixed more quickly.

This type of agreement lets the child stay at home, but measures are put in place to improve the situation.

The length of the agreement

The biggest difference between an agreement on short-term intervention and one on voluntary measures is its length. A short-term agreement can't last longer than 60 days. Not only is it shorter, but it can't be extended.

If the situation has not been fixed when the agreement ends, the DYP will either propose voluntary measures or send the case to court.

Signing or refusing to sign an agreement has consequences

When you sign an agreement, you acknowledge the problems with your child's situation.

If the agreement is not respected, the case goes to court. A judge will decide if the safety or development of the child is in danger. If you have signed an agreement, it will be harder for you to prove the opposite.

This means that you shouldn't sign an agreement lightly. Make sure you understand everything that is written in the agreement before you sign.

Receiving notice of legal action

The notice is probably from the DYP.

If that's the case, it means that they want a judge to take a decision concerning your child.

There are three types of applications

The official name of the document you received is an originating application. It's the start of the judicial process.

These are the three types of applications related to youth protection:

1 : Application for protection

- This is when a judge determines whether the safety or development of a child has been compromised.If the judge believes that to be the case, they then decide what measures must be taken.
- In the application for protection, the DYP must describe the facts and explain why they are asking the court to intervene. They must also list the protective measures they want to put in place for the child.
- This application is often referred to as a section 38, because it's set out in section 38 of the Youth Protection Act.

2 : Application for review

- This is when a judge is asked to review a court decision because the situation has changed.
- It is set out in section 95 of the *Youth Protection Act*.

3 : Application for extension

- This is when a judge is asked to extend an order because the protective measures are still necessary.
- In certain regions, the application for review is always used instead of the application for extension, whether or not the situation has changed.
- It is also set out in section 95 of the *Youth Protection Act*.

You can also file an application with the court

When a parent files an application with the court, it's usually an **application for review** or an **application for provisional measures**.

Application for review (or extension)

You can ask for a court decision or court order to be reviewed.

For your application to be accepted, it must first meet an important condition: the situation must have changed since the decision was rendered.

This change of situation must be significant: it must be important and have an impact on your child's situation.

Here is how to file an application for review:

- You must fill out a form called Application for review (ss. 74.2 and 95 YPA) (SJ-174A). There are two ways to get it:

  1. The printed version is available at the court office of the courthouse. The court office is usually easy to find by following signs on the walls. It's a room where you should see employees seated at a counter.
  2. The digital version is available on the Government of Québec website. To find it, type "Application for review (ss. 74.2 and 95 YPA) (SJ-174A)" in a search engine like Google.

- Once you have filled it out, you must be **sworn in** before you sign it. This means that you must promise that what you wrote is true. This promise must be made in the presence of a person authorized to receive a sworn statement.

  Who is authorized? Many people are. The simplest solution is to ask a court office employee at the courthouse. They are authorized to receive a sworn statement.

  You can also ask a **Commissioner for Oaths**. You can find one near you with the Ministry of Justice website's search engine. To go there, type "Finding a commissioner for oaths" in a search engine like Google. You might have to pay a maximum fee of $5.

- Next, get in touch with the courthouse court office to fill out the "Notice of Presentation" section of the form.

- You must send a copy of your application to all involved parties or their lawyers, either using a bailiff or by registered mail with proof of receipt. This is called notification. Notification must be done at least 10 days before the hearing date, but no more than 60 days before that date.

- Keep a copy of your application for your personal records.

- Finally, you must file your application with the court office along with the proof of receipt. You will have to pay a fee.

Application for provisional measures

Provisional measures are also called “urgent measures”. They are usually asked for by the DYP, but you have the right to ask for them as well.

This is the type of application you must make if you can’t wait until your next court hearing.

To file an application for provisional measures, legal proceedings must be in progress. In other words, the case must have been taken to the judicial system.

There is no form to fill out for this type of application. But you can start with the application you received from the DYP and adapt it to the provisional measures you want. The court office employees can explain the steps you’ll need to follow.

Note that applications for provisional measures are based on articles 76.1 and 91 of the *Youth Protection Act*.

You must then notify the other parties’ lawyers at least 24 hours before going to court. You can use email, but don’t forget that everything must stay confidential.

Here is what you must include in this notice:

- The date, time and place of the hearing.
- Why you are making this application (describe the facts).
- What you are asking the judge (the decision you would like them to take).

For more information on provisional measures, consult this guide at page 57.

You can get help

Court office employees can help you with the administrative process.

If they can’t answer your questions, you have other options.

First, you can ask a lawyer at a Community Justice Center. This is a free service. There are Community Service Centers throughout most of Québec. To get the location of a center near you, consult their website at justicedeproximite.qc.ca/en.

You can also contact the DYP caseworker.

Preparing your case so you don’t forget anything

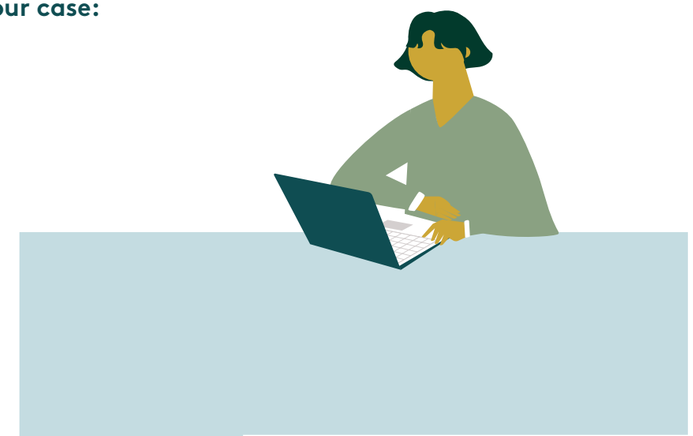
You must be well prepared for your court hearing.

If possible, consult a lawyer to make sure you’re on the right track. A lawyer can help you come to an agreement with the DYP if that’s what you want. They can also help you find a strategy and determine:

- what you should focus on to support your position.
- how you should present your evidence and your arguments.
- the rules of evidence that apply to your case.

Whether or not you get help from a lawyer, you will have a lot to prepare for the big day. Don’t wait until the last minute.

Here are five important ways to prepare your case:



1 Do more advanced legal research

You might want to better understand the laws that apply to your situation.

You should consult three types of sources to be thorough.

1. **The law**
   Especially the Youth Protection Act.

2. **Jurisprudence**
   Court decisions dealing with cases similar to yours.

3. **Doctrine**
   Theoretical texts written by specialized authors.

Many legal databases can be consulted online for free.

Read the “How to do your own legal research” guide on the Community Justice Centers website to learn about them. You can find it by typing “how to do your own legal research site: justicedeproximite.qc.ca” in a search engine like Google.

Make sure the information you find is **reliable, current and valid in Québec.**

You can use jurisprudence or doctrine as an argument during the hearing. To do so, you must:

- identify the relevant sections.
- prepare enough copies for yourself, the judge, and all the other parties.
- limit yourself to what applies to your case.

Remember: you might be convinced you are right, but the law might say otherwise.

2 Determine what you need to prove

Identify what you need to prove

Here's some advice: it's important to closely read the originating application filed by the DYP. It contains a list of all the elements they find problematic.

- First, decide your position on each of the statements in the originating application, which are called **allegations**. Usually, you'll find one allegation in each paragraph. You can either admit the allegation (you agree), deny the allegation (you don't agree), or claim lack of knowledge (you don't know).
- State your position in the same manner for each of the conclusions the DYP seeks.
- Next, make a list of all the elements you deny to be true.
- Look for a way to prove that these elements are false or inaccurate. Should you testify? Have someone else testify? Can you use a picture or an email as proof?
- Make sure you have enough witnesses and documents to prove each element. It's important.

When to prepare your evidence:

As soon as possible.

You can prepare your physical evidence and draw up your list of witnesses right away.

Later, you will receive one or more reports written by the DYP caseworker. This is when you will find out everything the DYP is worried about. If you learn anything new, you will probably need to prepare more evidence. It's still possible to do so.

The deadline to submit your evidence (called "**exhibits**") is 5 days before your hearing. Don't be late. To learn more about evidence and how to file it with the court office, go to page 34 of this guide.

3 Understanding notification

You will sometimes have to give notification to the other party.

But what exactly is notification?

We all know about the notifications that pop up on our phones and computers. They let us know something new has happened.

Judicial notification is similar. You must “notify” the other parties before filing new documents into the court record.

To do so, you have to send the document in a way that lets you prove it was received. For example, you could use email with read receipt, registered mail or fax.

If a document is meant for multiple people, notification must be done for each of them individually.

A copy of the document must then be filed with the court office along with proof of notification.

Many formal steps must be respected for notification to be valid. You can contact a lawyer for free at a Community Justice Center (justicedeproximite.qc.ca/en) for more information.

4 Filing documents with the court office (your exhibits)

Some documents must be filed with the court office. It's mandatory. There are also filing deadlines to respect.

For example, you must file all the documents that you want to use as evidence, such as pictures, bills, or emails.

The place where court files are kept is called the **court office**. The documents you will use as evidence are called your **exhibits**.

The court office of the courthouse

You can hand in your documents in person by going to the court office of the courthouse. It's usually easy to find by following signs on the walls.

The digital office

You can also file your documents online by using the digital office. To access it, type "Greffe numérique - Gouvernement du Québec" in a search engine such as Google.

Assign a code to documents

When you file your evidence, you must assign a **code** to each document. This is how to do it:

- **For the mother:** M-1 (name of exhibit), M-2 (name of exhibit), etc.
- **For the father:** P-1 (name of exhibit), P-2 (name of exhibit), etc.
- **For the father and the mother:** PM-1 (name of exhibit), PM-2 (name of exhibit), etc.
- **For another party:** I-1 (name of exhibit), I-2 (name of exhibit), etc.

This lets everyone quickly find the right document when referring to it between themselves or before the judge.

Include proof of notification

When you file documents with the court office, don't forget to include proof of notification. This proof lets everyone be sure that all the parties were informed of the documents you want to use.

To learn more about notification, read the preceding section.

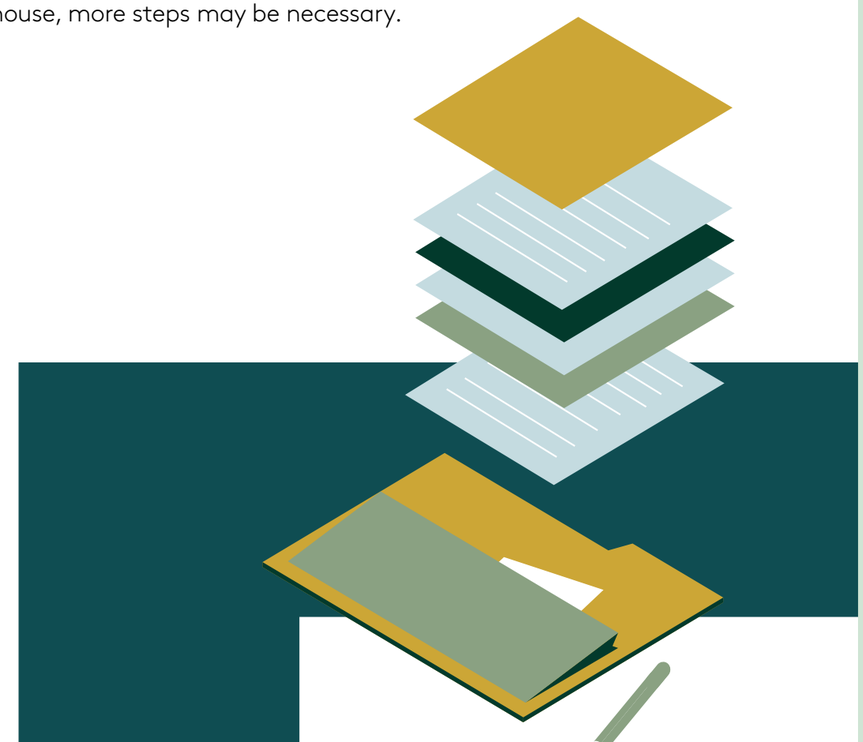
Ask for a copy of a document filed with the court office (if needed)

You can ask for a copy of a document in your file. The file is identified by your child's name.

To do so, go to the court office of the courthouse. Bring some ID, because you must prove that you are a party to the case.

The first copy is free. But if you ask for extra copies, you might have to pay a fee.

Depending on the courthouse, more steps may be necessary.



5 Prepare your witnesses

You can testify yourself to convince the judge at the hearing. You can also ask for other people to be heard.

The witness who says what they saw or heard

Someone who talks about facts they have seen, heard or observed firsthand is called an **ordinary witness**. This is to distinguish them from **expert witnesses**.

An ordinary witness cannot give their opinion.

Make sure they will be present

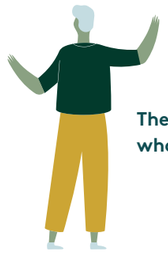
Contact your witnesses to remind them that their presence will be required in court.

Your witnesses might be friends or family members. They might also work for a community or social organization. These types of witnesses will usually agree to testify for free.

If a witness does not want to come, you must have a bailiff serve them a subpoena (call to appear as a witness) at least 10 days before the hearing date. You must also pay them an indemnity.

A model subpoena is available on the Ministry of Justice website. To find it, type "Subpoena (call to appear as a witness) SJ-282A" in a search engine like Google.

The amount of money ($) you must pay as an indemnity is set by the government. Ask the court office or the bailiff how much you need to pay a witness when necessary.



The witness who says what they saw or heard

Expert witnesses who give their opinion

The other parties' witnesses

Prepare their testimony

During the hearing, you will ask your witnesses questions to let them clearly explain their version of the facts.

Here is how you can prepare:

- Identify what each witness needs to prove.
- Prepare a list of questions for each witness.

It's possible that the other lawyers might also ask your witnesses questions. This is allowed, but they don't always do so. It's best to prepare your witnesses for this possibility, so that they're not taken by surprise.

Expert witnesses who give their opinion

An expert is someone whose qualifications or special knowledge about a subject allow them to formulate an opinion. For example, it could be a psychologist who evaluates someone's mental health.

An expert witness writes an expert report. The expert report must be brief, but sufficiently detailed and justified for the judge to understand it. The expert must specify what method of analysis they used. If the expert has gathered testimony, it must be included in the report, because it serves as evidence.

The expert witness doesn't usually need to testify in court, but their report must be sufficiently precise. It must be sent to the other parties and filed in the court record.

You might hear the lawyers or the judge talk about a “293” or a “2869”. They’re simply referring to the section of the law that allows them to present an expert report without having the expert testify.

You can still choose to have your expert be heard so that they can explain specific details or give their opinion on new evidence that may be introduced. The opposing party can also demand that your expert be present so that they can cross-examine them.

If they testify at the hearing, you must prove that they are a qualified expert. To do so, send their CV to the other parties and file it in the court record (at the court office). A court office employee can help you with this process.

If one of the parties questions their expertise, the judge must decide if they are qualified. There will be a hearing in court. You will then ask your expert witness questions about their CV. The goal is to show their expertise. The other party can also ask them questions. The judge will then decide if they qualify as an expert.

The other parties’ witnesses

Before the hearing on the merits, the other parties will make known their witnesses.

You will be able to ask these people questions during the hearing. This is called **cross-examination**. Make sure you are ready. The goal is not to learn new information, but to show the weak points in the other party’s case.

Make sure you avoid arguing with these witnesses. You should only ask them questions.

Cross-examination is not mandatory. You don’t need to ask a witness questions if you don’t have any.

Ask for an interpreter (translator)

If you speak a different language than French or English, an interpreter can let you understand what is being said in court and help you make yourself understood as well. In a way, they break down barriers for you.

You can get the services of an interpreter for free. How? It depends. The process can be different from one courthouse to the other. Ask your DYP caseworker, or get the information directly from the court office at your courthouse.

For Indigenous languages

For the Northern Québec circuit court, an interpreter is always available for Cree (Coastal and Inland dialects). At the Nunavik circuit court, there is an interpreter for Inuktitut. And for the Côte-Nord circuit court, an Innu-aimun interpreter is always available. You do not have to make a special request.

For other Indigenous languages and in courthouses that aren’t part of the circuit courts (also known as itinerant courts), you have to ask for an interpreter. Their presence is not automatic.

Be prepared: make lists so you don’t forget anything

Before going to the courthouse, make sure you are ready. Here is a list to make sure you don’t forget anything:

- ☐ I’ve reread the originating application and all the documents the other parties sent me.
- ☐ I’ve read and understood this guide in full. I know about all the rules and steps of the hearing.
- ☐ I’ve filed my evidence in the court record and I’ve respected the deadlines.
- ☐ I made sure all my witnesses will be present. They know where to be and when to be there.
- ☐ I prepared for the hearing. I know what I want to say and the right moment to say it. I made a list of the questions I want to ask the witnesses.
- ☐ I’m dressed appropriately for court.

What to bring

Here is a list of things to bring that can be very useful:

- ☐ A copy of the case file, including the originating application and all the documents that were filed in the court record.

  Make sure your file is well organized. Ideally, your personal case file should be identical to the court record, using the same numbers to identify each document. A well-organized file will help you easily find your documents.

- ☐ A plan of the order in which you want to present your witnesses and documents.
- ☐ A list of questions for the witnesses.
- ☐ The documents you want to give the judge and the other parties (with enough copies for all the parties and the judge). These documents could include any jurisprudence or doctrine you want to present.

In the courtroom
what you need to know BEFORE you go

If you receive a notice of appearance, you must be in court at the date and time indicated. Your presence is mandatory.

Rules of conduct to respect

There are many formal rules of conduct to follow in a courtroom. It's important to know and respect them.

These rules are mandatory. Breaking them can have significant consequences. Imagine how you would feel if the judge criticized you for breaking one of these rules. You don't want to deal with that kind of stress.

The rules apply at all times, even if it's not your turn to speak or if your hearing is virtual.

Here are the main rules:

Dress properly
You must watch how you dress when you go to court.

If your clothes are inappropriate, the judge might even order you to get changed.

Your clothes must be neat and proper. Do not wear caps, hats, sandals, or inappropriately short clothing (shorts, skirts, revealing shirts). You should also avoid ripped clothing.

Finally, if you have a tattoo that could be seen as offensive, sexist, violent, or drug-related, you might want to cover it up. Some judges don't appreciate this form of self-expression.

Be silent and discreet
When you enter a courtroom, you must avoid making noise or drawing attention.

That's why you must:
- turn off your phone before entering the hearing room.
- not bring any food or beverages.

You should also be aware that recording any sounds or images of the hearing is forbidden.

Stand when required
You must stand when the judge enters or leaves the hearing room.

You must also stand to speak to the judge or question witnesses.

Speak with respect
Disrespectful behaviour will not be tolerated.

You must use polite forms of address for everyone in the courtroom.

When you speak to the judge, call them "Judge (Last Name)."

When you speak to a lawyer, call them "Mr. (Last Name)" or "Ms. (Last Name)."

Wait your turn

During the hearing, listen attentively and only interrupt if you want to object to the opposing party's questions.

You must wait your turn to speak. Ask the judge for permission to speak if you need to say something.

Respect the judge's requests and decisions

The judge is in charge of the hearing. Respect their decisions and obey their instructions at all times.

The judge can ask you questions about the facts you are explaining. Even though you know your case very well, remember that the judge is hearing your story for the first time. Some details might not seem important to you, but the judge might find them crucial. Listen carefully to their remarks and questions, and try to answer as best you can.

The judge's interventions do not indicate that they think you're right or wrong, nor do they mean that the judge favours either side.

Finally, remember that the judge is the only person you are trying to convince at the hearing. Always look at the judge when you talk to them.

Court employees can answer some of your questions… but not all

When you're at the courthouse, there's a place where you will see people working behind a counter. You might get the impression that they can answer your questions.

But is that actually the case? Yes and no.

This place is called the court office. It's an administrative office that exists in all courthouses. It's where all proceedings are filed and where case files are kept.

The court office employees can give you information on administrative matters. For example, they can tell you about the forms you need to fill out and the documents you need to file in the court record.

But they aren't lawyers. They can't fill out forms for you, nor can they tell you if what you wrote is good or bad. And they can't predict how the judge will rule or explain the law.

If you need more specific help, contact your DYP caseworker. You can also talk to a lawyer for free at a Community Justice Center (justicedeproximite.qc.ca/en). But neither of these resources can give you detailed judicial advice.

The lawyers aren’t teamed up against you

It can be intimidating to face lawyers, it’s true. They know each other and they know how things work in court.

But are they teamed up against you? The answer is no.

Lawyers that talk to each other aren’t plotting against you

You might notice that the lawyers involved in your case talk to each other.

Don’t worry, they aren’t plotting against you.

First of all, they may know each other. They often see each other at court when working on cases. Like you and your coworkers, it’s good for them to have a healthy and polite working relationship, even when they are on opposing sides of a court case.

It’s true, they might be talking about the case. Lawyers often try to find solutions and negotiate outside the courtroom to help move the case forward.

It’s normal to want to participate in these exchanges. If you’re open and respectful, you’re welcome to take part. In fact, it’s never too late to come to an agreement.

Each lawyer has a different role

The lawyers involved in your case all have a different job to do. It’s important to understand what each of them is defending.

The lawyer for the DYP

First, let’s clear something up: the lawyer for the DYP is not trying to win against you. They are not at war with you. Their only goal is to present the judge with all the facts the DYP has gathered about your child’s situation.

The lawyer for the DYP works in tandem with the caseworker:

- The caseworker evaluates your child’s situation. To do so, they base their evaluation on precise guidelines defined by law[1].
- The lawyer for the DYP must then communicate that evaluation to the judge. In a way, their job is to translate the vocabulary of a psychosocial assessment into legal terms.

1. Article 38 of the Youth Protection Act sets out these guidelines. A good explanation can be found on the Government of Québec website. To find it, type “Grounds for reporting a situation DYP” in a search engine such as Google. Then, click on the first result with the Quebec logo.

The lawyer for the child

This lawyer's one and only client is... your child. They don't represent anyone else. They don't form a team with the DYP's lawyer. In fact, they don't work for the DYP, and the position they defend in court might be different from the one defended by the DYP.

You might think that your child is too young to understand the situation. That's quite possibly true. And it's why there are two types of mandates for a lawyer representing a child: the conventional mandate and the legal mandate.

- **Conventional mandate**: this means the lawyer believes your child can understand the situation and is able to express an independent position.

  When the lawyer has this type of mandate, they must advise your child. They must also defend your child's position in court, even if they don't agree with it.

- **Legal mandate:** This means that your child is not able to understand the situation and can't express what they want and need.

  If this is the case, the lawyer will need to listen to all the evidence before deciding on their position. They must then defend what they believe to be best for your child.

To sum up, the lawyer must always act in the best interests of their client. Always, no matter their client's age.

As a parent, you must allow your child to meet alone with their lawyer. Your child has the same right to professional secrecy as anyone else. In fact, their lawyer won't reveal what your child has told them, even if you ask.

You don't get to decide whether your child will have a lawyer. It's automatic. This is to make sure that every child can have their voice heard in court.

Your child's lawyer will be paid by legal aid, no matter your income. All children are eligible for legal aid in youth protection cases.

There can be other lawyers

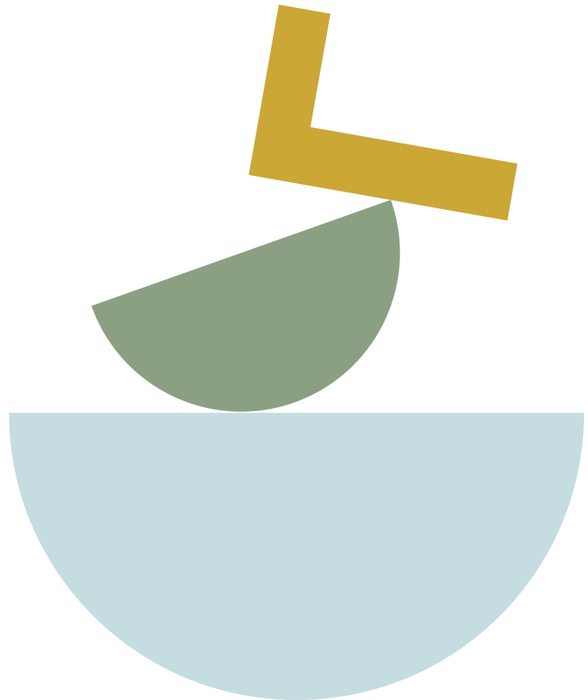
All parties have the right to be represented by a lawyer.

If there is an interested person, like the child's grandmother, they also have the right to a lawyer. To learn more about interested persons, consult page 52 of this guide.

What's more, it's not impossible for the *Commission des droits de la personne et des droits de la jeunesse* to take part in the hearing. In that case, they would also be represented by a lawyer.

Of course, don't forget that you also have the right to be represented by a lawyer. If you need help deciding, consult page 10 of this guide.

And always remember that each lawyer only defends the best interests of their own client. They are not a team fighting against you.



The judge is neutral and impartial

The judge is not the ally of any particular party. They're no one's enemy, either.

They will listen closely to what you have to say. They will also consider the DYP's opinion and that of your child. They will hear all the witnesses and consider everyone's arguments. They will then make a decision based on all of this evidence and the relevant law.

It's important to know that the judge can't give you advice about your case or tell you how to defend your position.

On the other hand, they can give you information about the process. They can also help you by clearly explaining the situation. If you're not sure you understand what you're being asked to do, ask the judge. It's part of their job.

Do you have a hearing? Plan ahead for the day

You may know what time to go to the courthouse, but it's hard to know when you'll be done.

In fact, the hearing might be delayed by a few hours. Even if it's supposed to start early in the morning, it's not impossible that your turn will only come late in the day.

This doesn't mean your case is less important than the others. These delays are unfortunately common and hard to avoid.

There's no point in lashing out at the court employees or the DYP's lawyer or caseworker. They are probably as unhappy as you are with the delay. And they are powerless to speed things up.

Missing work

It might be complicated for you to miss work.

Did you know that most workers are allowed to miss up to 10 days of work every year for family reasons[2] ?

This means that your employer can't punish you when you miss work to take care of your child, as long as you don't miss more than 10 days a year.

To learn more about family leave, read the Family or parental obligations section on the CNESST website at cnesst.gouv.qc.ca/en. To find it, type "family leave cnesst" in a search engine like Google.

If necessary, you can ask for a document indicating the time and date when you were in court. You can then give your employer this document. You simply have to ask for one at the court office.

2. People who work for organizations subject to federal law or who work for the federal public service are instead allowed 5 days of family leave each year. It's also possible that your employment contract or collective agreement allows you to take more family leave.

Hearings are private

Unlike criminal or civil trials, youth protection hearings are private. The legal term for a hearing that is closed to the public is **in camera**.

This means that only the people involved in the case are allowed in the courtroom. These people are called the **parties**.

The people who can be present at the hearing

- The child.
- The parents.
- The DYP.
- The parties' lawyers.
- The foster family or the person responsible for taking care of the child.

Everyone else must wait outside the courtroom. Or to be more exact, almost everyone else.

Other people can ask to be present at the hearing, but the judge doesn't accept such a request automatically. For example, in exceptional cases, the judge could allow the child to be accompanied by someone who is important to them. And if you're receiving psychosocial counselling, the judge might let you be accompanied by your social worker.

The person who wants to be involved, but isn't the parent

Maybe you're a member of the family that took in the child. Or you might be part of their extended family, like a grandmother or an aunt.

Do you have important information you want to share with the judge? It's possible to do so. You will be referred to as an **interested person** or an intervener (that's the official name for your role).

How to intervene

It depends on your role in the child's life.

If you've been given responsibility for the child's care, you automatically have the right to intervene, without asking for permission. You can testify and share your observations. You can also be assisted by a lawyer.

Otherwise, you must make a written request, as set out in section 81, paragraph 3 of the Youth Protection Act. If possible, you should talk to the DYP's lawyer so that they can guide you through the process. But you should know that they are not allowed to reveal anything about the case.

Before accepting your request, the judge will determine if you need to be involved as more than a witness. They will also evaluate if the evidence risks being incomplete or inexact without your input. That's why you should take the time to properly explain the reasons for your request.

If it's urgent, or if the other parties agree, you can ask the judge orally and directly. You can tell the DYP's lawyer that you wish to be heard and they will inform the judge. It's also a good idea to inform the DYP caseworker of your intentions.

You won't be a party

As an intervener, you don't have the same rights as the other parties: you can't examine or cross-examine the other parties, you don't have access to any reports in the case file, you aren't allowed to plead your case, nor are you even allowed to get a copy of the judgment.

To have the same rights as the other parties, you need to… become a party. It's possible to be granted this status, but you need to ask for it. To do so, you must submit a written request as set out in section 81, paragraph 4 of the *Youth Protection Act*. For more information, contact a lawyer for free at a Community Justice Center (justicedeproximite.qc.ca/en).

In the case of an Indigenous child

If you are the person responsible for youth protection services in the child's community (or the person who holds a similar role), you can intervene at the hearing.

In fact, the DYP must give you the date, time and location of the hearing. They must also inform you of your right to intervene. The judge will make sure the DYP has done its duty.

Your intervention will let the judge learn about your community's culture, history and traditions. You will also be able to inform the judge about the child's living environment and about the services available to the child and their family.

Don't mix up different courts

In addition to the youth protection hearing, you might be involved in a criminal trial or a family law trial (divorce or child custody).

Even though you might face blame for the same actions, the rules and goals are very different in each of these courts.

For example, if it's believed that you were violent with your child, this will form part of the evidence in all of your court cases. But even if one judge declares your innocence, that doesn't mean that another judge will automatically find in your favour.

Here's why:

Before declaring your guilt in a criminal trial, the judge must be convinced beyond a reasonable doubt. This means that they must acquit you if they have even a slight doubt of your guilt. But the same level of certainty is not required in youth protection cases. As long as the judge concludes there is a probable risk to the child, that's enough for them to consider that the child's safety or development is compromised.

You should also be aware that the different judges in your court cases don't talk to each other. You must present all of your evidence each time. But you are allowed to file another judge's decision as evidence in a different case.

Steps before the hearing on the merits

As you can imagine, many things happen between the moment legal action starts and the final judgment. What takes place between these two events is called the **case**.

The length of the case can vary. Even though everyone agrees it's best for cases to be completed quickly, it can sometimes take months to bring an end to proceedings.

Here are all the possible steps of a case:

- provisional measures.
- case management.
- pro forma hearing.
- settlement conference.
- pre-hearing conference.

These steps probably won't all be necessary. You will generally only have to go to court twice during the case. But it could also be more.

Not all courthouses follow the same procedures.
This means that there could be differences between what is laid out in this guide and what you will have to do.

In that case, make sure to respect the instructions and directions that apply to your situation.

Provisional measures: for urgent situations

What it is

The DYP might want the judge to decide something urgently. For example, the judge could determine where the child will live temporarily.

The judge then makes an urgent decision, based only on the documents and explanations you and the DYP provided.

This decision is called a provisional measure. The only objective is to put in place temporary measures to protect the child.

This step is always a possibility, but it won't be necessary in all cases. And sometimes, there can be more than one hearing on provisional measures.

What it isn't

The hearing on provisional measures is not the same as the hearing on the merits.

At this stage, the judge only makes a decision on the urgent question put before them. And that question if to decide if they should apply the measures proposed by the DYP before the legal process is complete.

This hearing is therefore not the time to determine if the safety or development of the child is compromised. For example, if the judge decides the child should stay with their father, it doesn't mean that the judge believes the mother was abusing the child.

How it takes place

If the DYP asks the judge to hold a hearing on provisional measures, the caseworker will call to inform you. They can also inform you by email or tell you in person.

Once notice has been given, the hearing takes place very quickly. That's normal, because this type of request is always urgent. The hearing could even be the next day.

During a hearing on provisional measures, evidence can be presented more simply than usual. The rules and procedures aren't as strict. For example, someone can testify about what they heard someone else say (hearsay), which is normally not allowed.

Don't come to the hearing with 12 witnesses and boxes of documents: this is not the right moment to present all of your evidence. Don't worry, you will be able to present your whole case later, during the hearing on the merits.

Provisional measures can be reviewed and modified. If your situation has changed, you can make an application for review of the provisional measures.

Non-placement measures

There are two types of non-placement measures.

First, in some cases, the child can stay with their family as long as certain conditions are met. For example, parents could have to respect certain promises, or it could be forbidden for the child to be brought into contact with certain people.

In cases like these, it's clear: the child can stay at home.

But the judge could also order your child to be entrusted to someone who is close to them. For example, they could entrust your child to their grandparents, or to other members of your extended family.

When the child is entrusted to a close relation, they are said to be in a kinship foster family (**FAP** in French) or a candidate kinship foster family (**PFAP** in French). This is considered a non-placement measure, because the child is in a close family environment.

These non-placement measures usually apply until the final judgment.

Placement measures

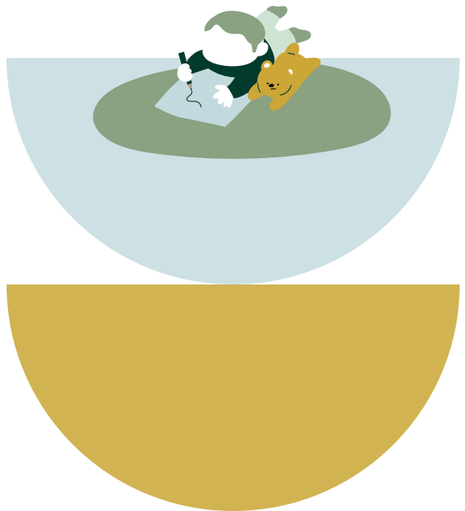
For the judge to remove a child from their family, they must conclude that they are at risk of "serious harm". This expression can refer to serious harm not only to the child's physical health, but also to their emotional or psychological health. The risk must be real, but the harm doesn't have to be already present.

Here are some cases that could justify the placement of a child:

- If a child has serious behavioural problems, such as regularly running away or taking drugs.
- If parents are unable to take care of their child and no close relation can take them in.

The placement can be with a foster family or in a youth center (also known as a **rehabilitation center**).

Placement measures have a time limit. They can't normally last for more than 60 days. But their duration can be extended if you agree or if very serious reasons make it necessary.



Steps to help plan ahead

It's important to set dates for everything that needs to be done during the case.

You might be asked to meet with the judge and the other parties to plan the next steps during a **case management conference.** You might also be asked to draw up a schedule called a **case protocol** or to take part in a **pro forma hearing**.

Here is an explanation of these different steps:

Case management conference

A case management conference is not needed in all cases. But when you are called to participate in such a conference, your presence is mandatory. Being absent without a valid reason can have negative consequences.

It's important to know that case management conferences don't happen the same way in all districts. What you have to do might be different from what is set out in this guide. It's crucial that you follow the instructions and directions specific to your case.

What it is

The goal of the conference is for everyone to plan out the case together. Normally, the case management conference is presided over by the same judge as for the hearing on the merits.

You will be asked:

- if you agree or don't agree with the DYP's complaints about you (the motives of compromission).
- what you want to use to prove your case (your evidence).
- who your witnesses will be.
- your opinion on the conclusions asked for by the DYP.

Bring your agenda! This is also when a date will be chosen for the hearing on the merits. Ideally, you should already know when your witnesses are unavailable.

The judge will also give you a deadline to file your evidence with the court office (for more on this subject, see page 34 of this guide.

Depending on the specifics of your case, you might also have to draw up a schedule for some other steps to come.

What you need to do before the conference

The DYP should normally send you a copy of the evidence it plans to present at the case management conference.

Once you have received it, here is what you must do:

- Prepare the documents you want to use as evidence.
- Make a list of all your evidence.
- Ask your witnesses if and when they will be unavailable.

You might be asked to file your documents with the court office before the actual date of the case management conference. If this is the case, don't wait until the last minute to prepare and make sure you respect the deadline.

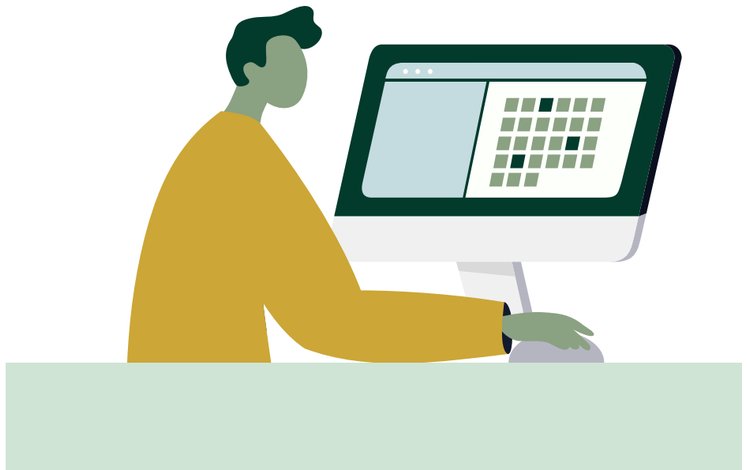
Case protocol

The case protocol is a schedule that helps plan out the next steps. It's not required in all cases.

If the judge believes a case protocol is necessary, you must complete it with everyone involved in the case (the other parties). It's a very important document, and everyone must cooperate.

You must estimate how much time will be needed for each step and set out deadlines for their completion. Once the case protocol is signed, you have to respect it.

Filling out this form isn't easy. Don't wait until the last minute: you must be ready and able to answer all the questions.



Here is some information that might be required to fill out the case protocol:

Allegations: These are statements that need to be proven in court. You might be asked to state your position on each of the allegations.

You can either:

- admit an allegation - when you agree that it's true.
- deny an allegation - when you believe that it's not true.
- ignore an allegation - when you don't know whether it's true.

If everyone agrees that an allegation is true, it won't need to be proven before the judge. This saves time.

Provisional measures: These are measures that are urgently needed to protect the child. They are usually asked for by the DYP.

In the case protocol, you can state that you want to change the measures that are already in place. For example, if your child has been placed in a foster family, but you don't agree with this measure, you can state your objection.

To learn more about provisional measures, see page 57 of this guide.

Preliminary and incidental applications: These are special requests made to the judge.

For example:

- It can be requested for the child to be allowed to testify without a certain person being present in the courtroom.
- Someone can ask the judge for permission to intervene at the hearing, such as the child's grandmother, for example.
- You can ask the judge to force someone to share with you a document that you need.

Settlement conference: You need to state if you wish or don't wish to take part in a settlement conference.

To learn more about settlement conferences, see the next page.

List of witnesses: You must make a list of everyone you want to question (your witnesses).

For each witness, you have to give your best estimate of the duration of their testimony. You will also be asked why it's important that they be heard and what they will contribute to your evidence.

To learn more about witnesses, see page 36 of this guide.

List of the documents used as evidence: The documents, pictures and text messages that you want to use as evidence are called exhibits.

You must make a list of all the documents you want to use to prove your case. These could include contracts, emails, letters, text messages, pictures, bills and invoices, etc.

You must also set a deadline for your evidence to be complete and share that deadline with the other parties.

To learn more about documents used as evidence, see page 34 of this guide.

Pro forma hearing

The pro forma hearing lets the parties discuss different issues related to the case. It usually doesn't take long.

This is the time to check if the case is ready, if there are objections, etc. A pro forma hearing can also be organized to delay a hearing and select a new date.

If you must attend a pro forma hearing, bring your agenda.

Find an agreement with a settlement conference

Going to court is very stressful. It's a hard process that involves difficult emotions. Preparing for the hearing will also take up many hours of your time.

Even if the court process has started, it's never too late to try to find an agreement with a settlement conference.

What it is

It's a way to look for solutions and avoid the hearing on the merits. During a settlement conference, the DYP, the child (their lawyer) and you will be able to negotiate. It's an opportunity to get creative in your search for a solution.

A settlement conference is held in private in a room at the courthouse.

A judge will help with the conference. However, the judge's role is not the same as in the courtroom. In a settlement conference, the judge will help you discuss and find solutions. He's not there to decide, as he usually does.

The judge isn't on your side or the DYP's side. They are impartial and neutral.

For the conference to be a success, you have to work with the DYP to find measures that could fix the problems. If you come to an agreement that respects the rights and best interests of the child, the judge will make it enforceable. It will have the same weight as if the judge had made it part of their judgment.

Before signing such an agreement, make sure it contains all the items you agreed on and that you understand all the terms that are used.

It's never too late to find an agreement. You can keep trying to do so, even after the settlement conference is over.

If you have the means, a lawyer can assist you for this step. It will probably cost less than having a lawyer for the entire legal process.

If the conference fails

Nothing will be filed into the court record. There will be a hearing, but it will be presided over by another judge.

Everything that was said, written or done during the conference will remain confidential. Nothing can be mentioned to the judge at a later hearing. Everything must stay secret.

How to ask for one

You can ask to take part in a settlement conference at any time. But it's best to do so at the start of the legal process, to respect the deadlines set out in the law.

To request a conference, you must fill out a form with the DYP, the child and their lawyers. Everyone must agree to participate.

Once everyone has signed the form, you must file it with the court office of the Youth Court.
A lawyer will take it from there.

The form is called "Joint Request for a Settlement Conference in a Youth Protection Case". It's available on the Court of Québec website (courduquebec.ca/en). To find it, click on the 3 lines in the top right corner of the Court of Québec website. Then, click on "Documentation Center" and on "Relevant documents for all regions." You will find it with the Youth Court documents. If your screen is wide enough, you should see the Documentation Center tab directly instead of having to click on the three lines.

Unfortunately, settlement conferences are rarely requested in youth protection cases. For the conference to work, everyone must feel safe. This probably isn't the case in difficult family situations that involve violence or intimidation.

Pre-hearing conference

A pre-hearing conference is useful for complicated cases that can take a long time.

What it is

A pre-hearing conference is a brief meeting between you, the judge and the other parties. The goal is to find ways to make the hearing on the merits shorter, more efficient and less complicated.

It can be quite technical and many legal terms will be used. Lawyers are usually the ones who take part in pre-hearing conferences, but you are welcome to join them. You can be there and participate in the discussions.

All decisions and agreements taken at a pre-hearing conference are noted and filed in the court record.

Hearing on the merits

Your time to be heard

Hearing on the merits = **Inquiry on the merits** = **Final hearing** = **Trial**

All of these expressions refer to the same thing.

No matter how it's called, this is when you can be heard and explain your point of view to the judge.

It's true that this is a very stressful moment. Presenting your case to a judge can trigger painful emotions. If you are well prepared and understand the different steps involved, your experience might not be as hard.

If you feel your emotions well up or you need a moment to gather your thoughts, you can ask the judge for a short break.

The hearing on the merits can be avoided.
Would you like that? It can be possible if you manage to agree to a solution with the DYP. You can then propose a draft agreement.

It's never too late for this.

How the hearing happens - step by step

You must wait for the right moment to talk, because the hearing on the merits is divided into different steps. It's important to understand them to know **when to talk** and **what to say.**

Here is an overview of how a hearing on the merits unfolds:

1 Roundtable

Who speaks? All parties in turn

What to say? You briefly describe your case. You must tell the judge:

- If you contest the motives of compromission. If so, say which ones.
- If you contest the proposed measures. If so, say which you disagree with and what you would prefer.
- The number of witnesses you wish to question.

2 Evidence for the other parties

Who speaks? The other parties. You can also ask their witnesses questions when it's your turn.

What to say? The other parties present their evidence and question their witnesses. You can also ask them questions, but wait your turn!

3 Your evidence

Who speaks? You. The other parties can also ask your witnesses questions.

What to say? It's your turn to present your evidence and have your witnesses be heard. The other parties can also question your witnesses once you are done.

4 Closing address

Who speaks? All the parties in turn.

What to say? This is the conclusion. It's time to present your arguments. It's also your last chance to convince the judge. Tell the judge:

- what decision you believe they should take.
- why you believe they should do so.

Don't state your evidence again. The judge has already heard it!

5 Judge's decision

Who speaks? The judge.

What to say? The judge renders judgment. This can happen either immediately or later (under advisement). You must listen to the judge and respect their decision.

First moments in court

Don’t be late for your hearing! Get there early if you can.

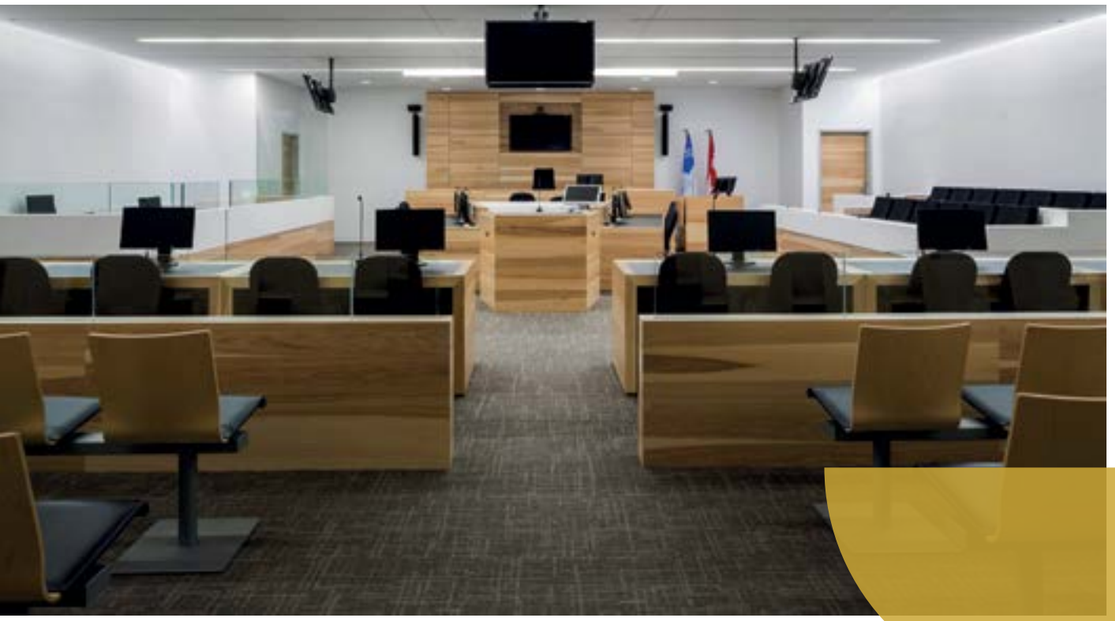
When you enter the courtroom, sit where indicated.

When the judge is ready to enter, someone will call out their name. You must stand up.

Stand until you are told you can sit back down.

The lawyers and parties will then be asked to present themselves: you must give your name and confirm that you don’t have a lawyer.

Here is what a courtroom looks like:



1 The roundtable: presenting the case

The hearing starts with a roundtable discussion. It’s a way to give the judge a general idea of what’s to come. It serves as a summary.

All the parties speak in turn. The party that brought the matter to court starts. This means that the DYP’s lawyer is usually the first to speak.

You will be told when it’s your turn.

Here’s what you need to say:

- What you are contesting and the important facts you intend to prove.
- The number of witnesses you wish to have heard.
- What you are asking the judge (specifically, the orders you would like them to make).

The roundtable isn’t long. It’s not the time to go into detail or state your arguments. You will get to explain your point of view later.

Even if it’s a relatively simple step, take the time to think about what you wish to say. This will be the first time you speak at the hearing, so it will be a stressful situation!

You’ll find a model form you can fill out to prepare for the roundtable on page 90.

2 Presenting the evidence

After the roundtable, each party presents their evidence in turn, starting with the party that brought the matter before the court. In youth protection cases, this is usually the DYP.

What evidence is

Evidence refers to any element that supports what you say. This could include documents that you have filed in the court record (such as pictures, videos, emails, bank statements or invoices), as well as witnesses who testify about what they have seen or heard.

The key is to be able to prove your objections to the DYP report.

For example:

The DYP report might state that you have a drug abuse problem. But you disagree with this statement: you must prove that it's false. Sometimes, the only possible evidence is your own testimony. But other evidence might exist. For example, a negative drug test might help you prove that you are not a drug user.

Presenting evidence to the judge

When you are presenting your evidence, try to pay attention to the judge. If you see them writing while you're speaking, slow down so they can complete their notes and listen to you.

The judge might tell you that an item of evidence can't be presented because you aren't respecting the relevant rules of evidence. You must listen to the judge and respect the rules. Otherwise, your evidence might be refused.

Testimony

Witness credibility

Testimony is usually an important factor in the judge's final decision.

This means that the judge must determine if each witness should be believed. This is called witness credibility. The judge must also decide if what each witness says is useful and logical.

Don't be surprised if the judge asks your witnesses questions. For example, they might want them to clarify part of their testimony.

How to question a witness

Ask them real questions. It's not the right time to explain your arguments or tell them your life story.

There are two ways to question a witness:

1. **Examination-in-chief**: When a witness is questioned by the party who asked them to come. In other words, when you question your own witness.
2. **Cross-examination**: When a witness is questioned by the opposing parties. In other words, when you question another party's witness.

Examination-in-chief

The examination-in-chief is when a witness is questioned by the party that asked them to be at the hearing.

An example would be when the DYP caseworker is questioned by their lawyer, or when you question one of your witnesses. You can also testify for yourself. You would then be the first witness for your case.

Do you feel uncomfortable testifying in the presence of your partner or child? That's very understandable, especially if there's family violence involved. Tell the judge as soon as possible. There might be a solution to help you.

Witnesses wait outside the courtroom

Witnesses must wait outside the courtroom until they are asked to enter. They will be called one at a time. Obviously, this doesn't apply to you. Since you are both a party and a witness, you can be in the courtroom for the entire hearing.

Here is how to call your witnesses during the hearing:

- When you are ready to call a witness, tell the clerk. The clerk is the person sitting in front of the judge and wearing a black gown, like the lawyers.
- The witness will go to the witness stand. They will be sworn in before testifying: this means they must promise to tell the truth.
- You can then start questioning them.

Questions that don't suggest the answer

Your questions must be direct, and you cannot use leading questions that suggest the desired answer. Here's a suggestion: ask questions that start with who, what, where, when, why or how.

These types of questions force the witness to give more than a simple yes or no answer.

For example:
Instead of asking: "You stopped using drugs six months ago, is that right?" ask: "When did you stop using drugs?"

If you suggest an answer to your witness, the opposing party can object to your question.

But be careful. During cross-examination, leading questions that suggest an answer are allowed. Make sure your witnesses are aware of this before they are cross-examined by the other parties.

During the examination-in-chief

Do this:	Don't do this:
Start with questions that let you present your witness. For example, "What's your relationship with the child?"	Don't suggest an answer when asking a question
Ask clear and simple questions.	Don't ask long questions that are hard to understand.
Give your witness enough time to answer before asking the next question.	Don't ask two questions at once.
Try to ask questions in the order of events to help the judge get a clear picture.	Don't ask the witness to give their opinion (unless they're an expert witness).

Cross-examination

After you have finished questioning each of your witnesses, the other party can ask them questions too. This is called cross-examination. During cross-examination, leading questions that suggest an answer are allowed.

You will also be cross-examined. Or at the very least, it's likely. When you have finished with your initial testimony, the other parties will be able to ask you questions. This can be a very unsettling experience.

Remember these three rules while you are being cross-examined:

1. Answer calmly.
2. Tell the truth.
3. Don't invent something when you don't know the answer. Simply say you don't know.

When it's your turn, if you wish, you can also cross-examine the other parties' witnesses.

During cross-examination, it's highly recommended to only ask questions to which you already know the answer. Otherwise, the answer might surprise you and strengthen the other party's case. If you don't know what the witness will answer, it might be wiser to avoid asking the question.

This is not the time to argue with the witness, just to ask questions.

Remember, you never have to cross-examine a witness called by the opposing party. The best evidence is often the one you present using your own witnesses.

During cross-examination

Do this:	Don't do this:
Ask questions with yes or no answers. Don't let the witness say more than you want them to say.	Don't argue with the witness.
Be respectful with the witness.	Don't comment on their answers (you can do this during the closing address).
Ask questions to which you know the answer.	Don't ask questions that could hurt your cause.
Listen to the answers and note the ones that seem important.	Don't ask the witness to give their opinion (unless they're an expert witness).

Your child's testimony

Your child might testify during the hearing, even if they are very young. They may want to tell their story in their own words.

Measures can be put in place to make their presence in court easier. For example, the judge might ask all the other parties, including you, to leave the room during your child's testimony. You would then learn the contents of their testimony after they have finished, unless the judge has good reasons to want to keep some information confidential.

Since you are not represented by a lawyer, the judge might prevent you from questioning or cross-examining your child. But there is a solution: a lawyer could do it for you.

If you can afford it, ask a lawyer to come to court that day.

But if that's too expensive, tell the judge before the hearing (during the case management conference or the pro forma hearing, for example). Tell them that you would like to ask your child questions. Creative solutions could be put in place to make everyone feel comfortable. For example, you could write down your questions and the judge could ask them for you. Another option would be for a lawyer to be selected to ask them for you.

Documents used as evidence

The documents, pictures and text messages you use as evidence are called “exhibits.” Bring the original documents to the hearing if possible.

You’ve already filed them in the court record (at the court office). You’ve also informed the other parties that you wish to present this evidence when you notified them. They may have requested that the authors of these documents be present at the hearing. This is because they have questions to ask them. These people then become witnesses, and you must make sure they attend the hearing.

Expert reports

The process is similar for expert reports. For example, if a psychologist wrote a report stating that your child is doing better, you will have filed it with the court office and notified all the other parties. Ideally, you will have respected the deadlines as well.

What happens if the deadlines were not respected? You can still present your expert report, as long as the other parties have enough time to react and to request the expert’s presence at the hearing if needed. But if you obtain the report too late, you will have to ask the judge for permission to present it at the hearing.

During your closing address (the next step), you’ll have the opportunity to explain to the judge why these exhibits support your point of view.

You’ll find a model form to fill out in preparation for presenting your evidence on page 91 of this guide.

3 Arguments (closing address)

After all the parties have presented their evidence, it’s time for the closing address. This will be your last chance to speak.

The closing address is an oral presentation that lets you present your arguments to the judge.

How exactly? This is what you must address:

- Tell the judge what decisions you would like them to take.
- Explain to them why you believe they should take the decisions you are proposing. Base your arguments on the evidence that was presented at the hearing (documents and witness testimony).
- If you have court decisions or legal texts that support your case, this is the moment to present them. Make sure you bring enough copies of these documents for the judge and all the parties.
- If you don’t agree with the arguments that were raised by the other parties, you can try to argue against them. Tell the judge why these arguments aren’t relevant to your situation.
- Finally, state again what orders (decisions) you would like the judge to make.

During your closing address, you are not allowed to introduce new facts or details that were not established when you presented your evidence, unless the judge gives you permission.

Each party presents their arguments in turn. Again, the party that brought the matter before the courts starts first. Don’t interrupt the others during their closing address.

Make sure you prepare your closing address ahead of time. You can add to it during the hearing, if you want to respond to the arguments brought up by the other parties.

Here’s a suggestion: practise saying your closing address out loud. Don’t forget, this will be your last chance to convince the judge.

You will find a model form to fill out to prepare your closing arguments on page 92 of this guide.

4 Judge's decision (the order)

After hearing from all the parties, the judge must evaluate the evidence presented and decide the matter according to the law.

In their decision, the judge must determine if the safety or development of the child is compromised.

If they believe that to be true, the judge will specify the following in their judgment:

- They must explain the reasons that make them believe the child's safety or development is compromised. This explanation must be clear and easy to understand.
- They must order measures to be taken to fix the situation. This is called the order.
- Finally, they must specify how long these measures will last.

The order takes effect immediately

The measures are in effect from the moment the judge renders their decision, even if it has not yet been put into writing.

For example, let's say a judge renders judgment orally on the day of the hearing. They might only file the written decision much later, up to 60 days after the hearing. But the measures will still be in effect as soon as judgment is rendered, even if the decision hasn't yet been put in writing.

The judge can render their decision later (under advisement)

The judge can take time to think before rendering their decision. The case is then said to be **under advisement.**

While the case is under advisement, nothing changes: the situation stays the same. For example, if your child has been placed with a foster family, they will remain there until the judge decides otherwise.

Don't try to communicate with the judge. This is forbidden while the case is under advisement.

You will receive the decision by mail.

The order is binding

You must respect the judge's decision, even if you disagree with it.

If you don't respect the order, there will be consequences.

Appealing a judgment

If you disagree with the judge's decision, you can file an appeal. You must act quickly, because you have 30 days from the moment the judgment is written.

You shouldn't appeal the judgment simply because you disagree with it. An appeal doesn't lead to a new hearing and doesn't let you present new evidence.

To win your appeal, you must be able to prove that the judge made critical errors in their decision.

The rules and procedures that apply to appeals are different from those described in the previous sections. Appeals take longer and the process is more expensive. Before filing an appeal, it's best to get legal advice if possible. A lawyer can give you an idea of how likely you are to succeed.

The appeal of a judgment is not an application for review.

These are two different things.

Application for review (or extension)

When the facts have changed since the judgment.

These changes are so major that the order must be modified.

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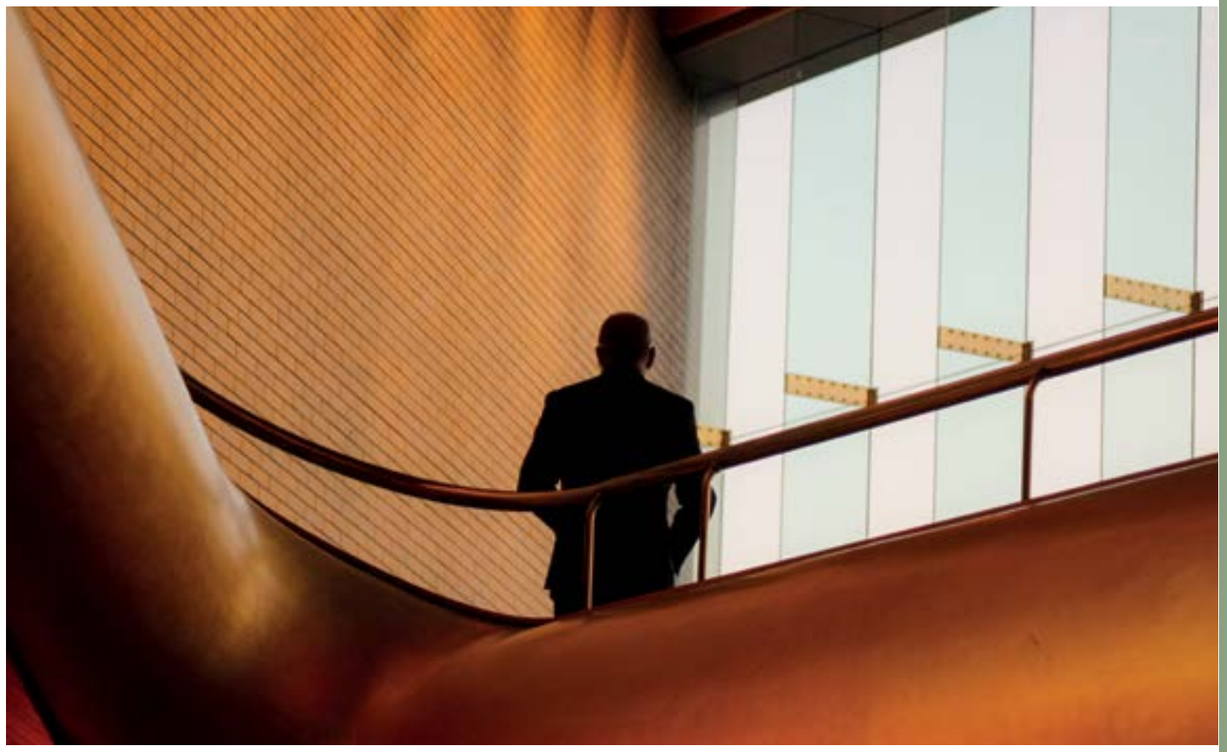
Appeal of a judgment

When the judge made critical errors in their decision.



To learn more about applications for review (or extension), see page 23 of this guide.

Sections of the law
Understanding lawyers' legal jargon

You might hear lawyers, caseworkers and judges speaking in numbers.For example, they might say things like: "We're doing a 38 today.". Or, "I think we'll have a 76.1 too".

Don't worry: it's not a secret language. They're simply talking using... sections of the law. Here is a table to help you decode this mysterious language.

Explanatory table

Section of the law	What it is	What it's used for	Explained in the guide
Youth Protection Act			
Sect. 38	Application for protection	- To declare that the safety or development of the child is compromised. - To decide protective measures.	Yes, at page 23.
Sect. 46 and 47	Application to extend an immediate protective measure	To keep in place an immediate protective measure	Yes, at page 16.
Sect. 76.1	Application for provisional measures	To put protective measures in place while the case is in progress	Yes, at pages 26, 57, 58 et 63.
Sect. 76.2	Notice of a 76.1	To give the parties notice before an application for provisional measures is to be presented.	No
Sect. 95(1)	Application for review	To modify an active order.	Yes, at pages 23 and 24.
Sect. 95(2)	Application for extension	To extend protective measures.	Yes, at pages 23 and 24.
Code of Civil Procedure			
Sect. 37(3)	Additional requests	To let a judge rule on other matters such as child custody, emancipation or exercise of parental authority.	No
Sect. 292	Testimony by affidavit	To avoid having a witness come to court: a written statement can replace their testimony.	Yes, at page 38.
Sect. 293	Expert testimony	To avoid having an expert witness come to court: their written report can replace their testimony.	Yes, at page 37.
Civil Code of Québec			
Sect. 2869	Testimony by affidavit	To avoid having a witness come to court: a written statement can replace their testimony.	Yes, at page 38.

You have rights

In fact, you have many rights

The right to be informed and consulted

You have the right to be fully and precisely informed at every step of the case. You must also be given all the information you need in time for you to be able to act on it.

Don’t hesitate to ask any questions you have. In fact, the DYP caseworker must give you clear and simple answers. This means that they must make sure that you can understand what they are explaining.

The right to be heard

You have the right to share your point of view with the people in charge of taking decisions in your case.

This means that you must be allowed to give your version and explain the situation.

You child must also be allowed to communicate their needs and wants.

The right to be represented by a lawyer

You and your child have the right to a lawyer. This is true throughout the whole process, not just in court.

To be more precise, you have the right to:

- consult a lawyer.
- have the aid of a lawyer.
- be represented by a lawyer.

You can choose whichever lawyer you want, but the process of getting one is your responsibility.

The right to object

You are not forced to accept everything that is proposed. You have the right to object to many decisions taken by the DYP.

But your objections must follow the rules. The DYP caseworker can explain the process you must follow to file objections. Ask them how it works.

The right to be accompanied

You can be accompanied by the person of your choice when you meet with the DYP (but not by a lawyer).

What you’re going through is very hard. Having support from somebody you trust can help make these meetings less difficult.

For example, the users’ committee liaison officer can help you better understand what’s going on (see the next page for more on users’ committees). You can get their help at any point in the process. Don’t hesitate to contact them. This committee can really help you.

The right to be respected as a person

No matter your age, your origin, your religion or your income, you have the right to be respected.

If you believe that your rights were not respected

By the DYP, a youth center or a foster family

Do you believe that the DYP, a youth center or a foster family didn't respect your rights? That shouldn't happen. There are organizations that can help you make things right.

Users' committee

Your local youth center's users' committee can help you. Don't worry, they're an independent organization. You can contact them in total privacy.

This committee's role is to help you defend and protect your rights and make sure that they will be respected. They are a good first contact if you believe one of your rights was not respected. They can accompany and help you whether or not you choose to file a complaint.

There is a users' committee at each CISSS and CIUSSS. To find their details, contact your local CISSS or CIUSSS or consult their website.

Commission des droits de la personne et des droits de la jeunesse

If you believe your child's rights weren't respected, you can also ask for the *Commission des droits de la personne et des droits de la jeunesse* to intervene.

The Commission calls this a violation of rights. Their website explains it very well. The steps to request an intervention are also clearly described.

To find out more, go to their website at cdpdj.qc.ca/en. Click on the "File a complaint" tab and choose this option: "Requesting an intervention on behalf of a young person".

Do you believe you were harassed or discriminated against?

The *Commission des droits de la personne et des droits de la jeunesse* can also help you with this type of issue.

Go to their website at cdpdj.qc.ca/en and click on the "File a complaint" tab, selecting this option: "File a complaint of discrimination or harassment".

By a lawyer

You can file a complaint about a lawyer. You have the right to be treated with respect by all of the lawyers involved in your case, even those who represent the other parties.

But first, take the time to make sure that the lawyer actually acted wrongly. For example, you could discuss it with someone from your users' committee or with a lawyer at a Community Justice Center.

The Barreau du Québec website clearly explains how to file a complaint against a lawyer.

To find out more, go to barreau.qc.ca/en and type "how to file a complaint against a lawyer" in the search bar at the top right. You will find a link to this page.

By a judge

The judge is not allowed to be impolite or aggressive with you, or to be impatient without good reason. They are not allowed to make a fool of you either.

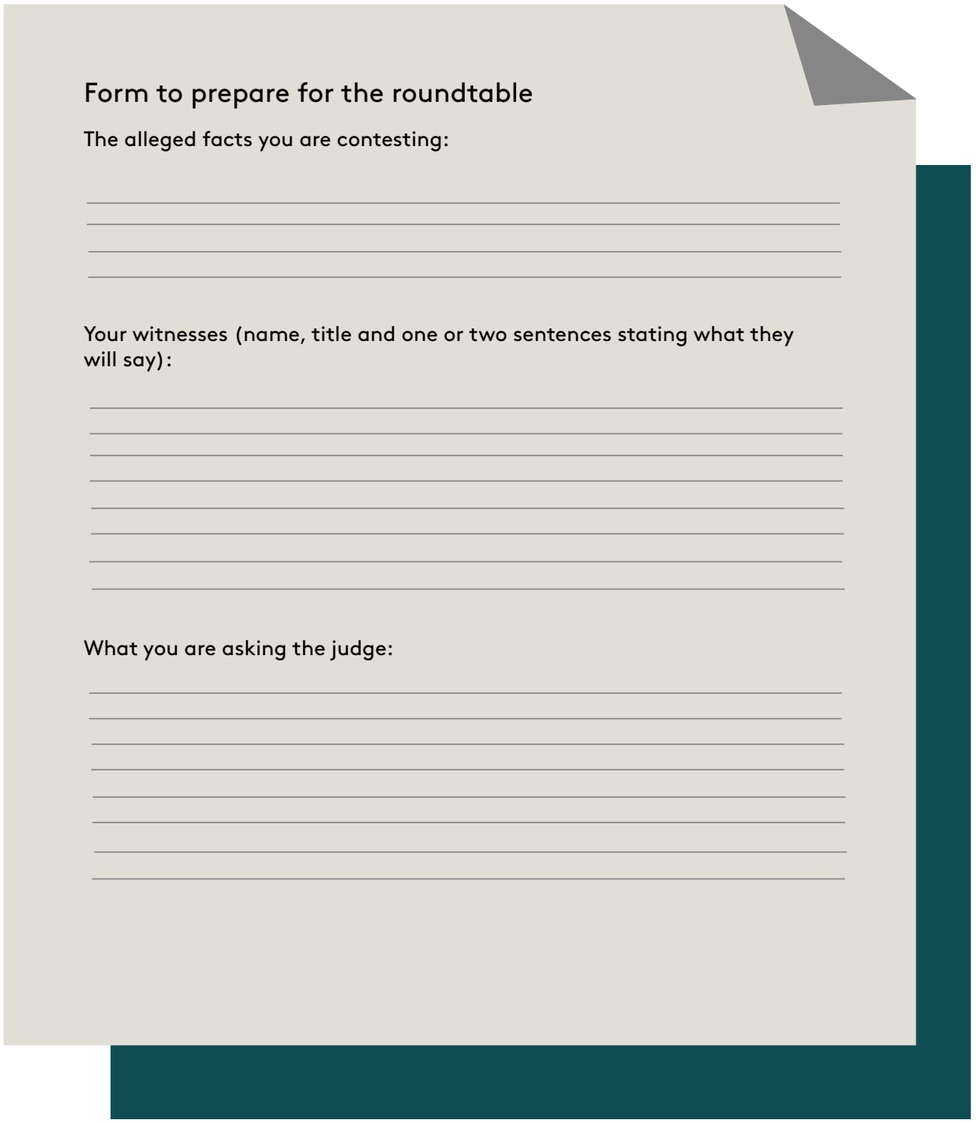
If you believe you were treated with a lack of respect, talk to the lawyers who were present. Even if they represent the other parties, they will give you their honest opinion.

The *Conseil de la magistrature du Québec* website clearly explains how to file a complaint against a judge.

To find out more, go to conseildelamagistrature.qc.ca/en and hover over the "Complaints Process" tab at the top of the page. You can then select "Why?" or "How?" to understand the process or "Form" to download a complaint form.

Model forms to help prepare

For the roundtable



Form to prepare for the roundtable

The alleged facts you are contesting:

Your witnesses (name, title and one or two sentences stating what they will say):

What you are asking the judge:

For presenting your evidence

What you are contesting in the report	Witness Who? You? Someone else?	Document	Facts to be established

For your closing address

Form to fill out as you prepare your closing address

What orders you would like the judge to make:

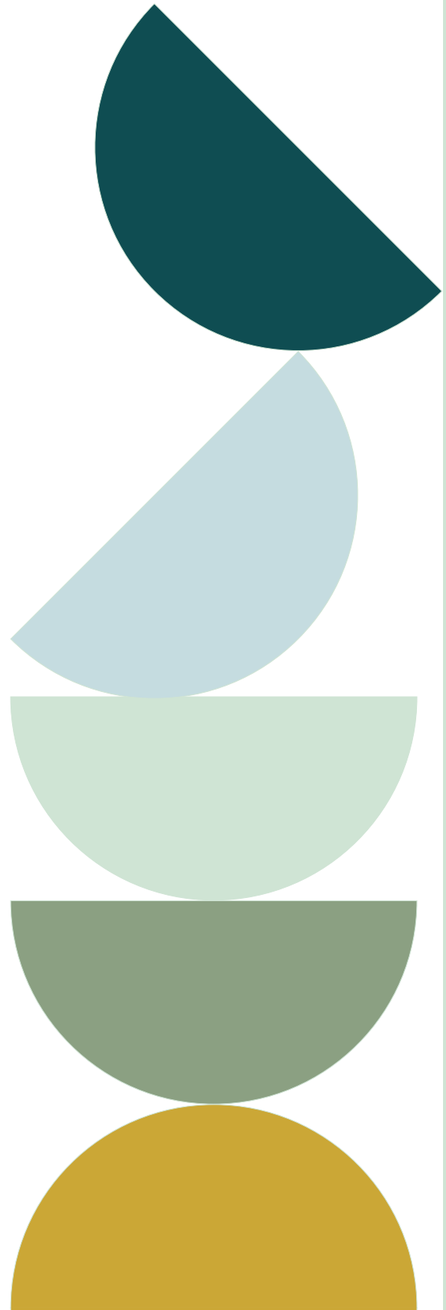
Why these would be the right decisions to make:

Why what the others are asking for would be wrong:

What evidence supports what you say:

What court decisions or legal texts support what you say (if you have any):

Which arguments brought up by other parties at the hearing you want to respond to:



Resources: To make things clearer

Many free or low-cost resources can help you prepare your case.

To ask questions

Users' committees
Would you like to be helped and accompanied through the process? This is the right place!

Your local youth center's users' committee can help you if you need information about your rights, obligations and options. They can also accompany you when you meet with a DYP case-worker.

Don't worry, a user committee is an independent organization. You can contact them in total privacy.

There is also a users' committee for each CISSS and CIUSSS. To get their details, contact your local CISSS or CIUSSS or consult their website.

Community Justice Centers
justicedeproximite.qc.ca/en

Community Justice Centers are an essential resource.

Located throughout Québec, these centers let you consult a lawyer for free. During the meeting, you can ask for:

- legal information specific to your situation.
- help finding the correct forms and information on how to complete them.
- help finding the other resources you need.

But note that Community Justice Center lawyers can't tell you what you should do or evaluate your chances to win. They also can't fill out forms for you or represent you in court.

There are 13 centers to serve you:-

Bas-Saint-Laurent
418 722-7770 • 1 855-345-7770

Centre du Québec
873-382-2262

Côte-Nord
581-826-0088 • 1 844-960-7483

Estrie
819 933-5540

Laval-Laurentides-Lanaudière
450 990-8071 • 1 844 522-6900

Mauricie
819 415-5835 • 1 888 542-1822

Montérégie
579 723-3700

Nunavik
819-254-8567 • 1 833 844-8055

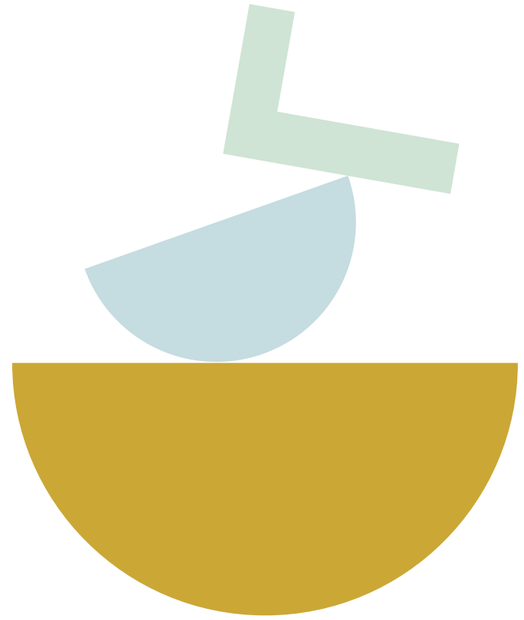
Outaouais
819 600-4600 • 1 844 606-4600

Québec-Chaudière-Appalaches
418 614-2470 • 1 833 614-2470

Grand-Montréal
514 227-3782 (option 4)

Saguenay-Lac-Saint-Jean
418 412-7722 • 1 844 412-7722

Gaspésie-Îles-de-la-Madeleine
418-689-1505 • 1 844 689-1505



Court office
https://www.justice.gouv.qc.ca/en/nous-joindre/trouver-un-palais-de-justice/
Note that the site redirects to the French version of the site at the time of writing.

Exhibits, forms, giving notice... It's easy to feel lost with all of the court documents you need to fill out!

Fortunately, the court office staff can answer some of your questions. But they can't fill out any documents for you.

The court office can be found inside your courthouse. It will be easy to find once you are in the building.

You can also contact a court office employee by phone.

Boussole juridique
boussolejuridique.ca/en

This site is essential!

It's an easy-to-use search engine that helps you find legal resources near you (such as legal clinics).

All the resources you'll find there are free or low-cost. Note that legal clinics are offered by all the law faculties of Québec universities.

To find out what resources are available in your region, select the "Youth" category and your region in the search bar, then click on "Recherche".

Community Justice Committees (in some Indigenous communities)
You might be able to get help from your Community Justice Committee.

However, these committees don't exist in all Indigenous communities. Find out if there's one in yours!

To find legal information and court decisions

Éducaloi
www.educaloi.qc.ca/en

This is a good starting point for your legal research. You will find reliable information that's easy to understand.

Centre d'accès à l'information juridique (CAIJ)
www.caij.qc.ca/en

You can use its UNIK search engine to easily find doctrine, court decisions (jurisprudence), and the laws you need to prepare your case.

Société québécoise d'information juridique (SOQUIJ)
soquij.qc.ca/a/fr/english

This website also offers a search engine for court decisions (jurisprudence).

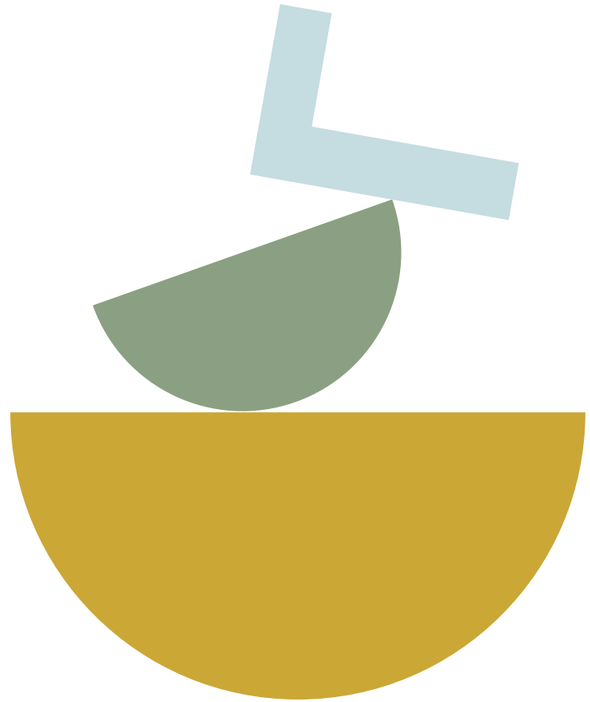
To find it, follow the link called "Looking for a court decision in English?" on the English homepage of the website or search for "translated decisions SOQUIJ" in a search engine like Google.

Québec Law Network
www.avocat.qc.ca/english

You'll find helpful information written by lawyers, judges and other legal professionals.

Index : Understanding legal jargon

The legal world has its own vocabulary which can be hard to understand.
To learn more about one of the terms below, consult the corresponding page of the guide.



Thank you

The *How to prepare for court* guides owe their existence to the Barreau du Québec's support and commitment to our mission.

Their enduring devotion to quality and accessible justice drives us to continue working for the advancement of law and to support the diverse next generation of legal professionnals.

Thank you!

Thanks to the CJC!

The production of the *How to prepare for court* guides would not have been possible without the participation of the Community Justice Centers (CJC). Thanks to their expertise, the information contained in the guides is accurate and meets the needs of citizens.

Together, we are helping to make justice more accessible and to increase public confidence in the justice system.