



## **The Youth Protection Act and Its Placement Periods**

One of the objectives of the *Youth Protection Act* is that a child be able to remain with his family or be able to return to his family as soon as possible, if it is in the child's best interests. At what point does one determine that the objective of returning a child to his family is no longer possible and, in particular, within what time frame?

**Section 91.1** of the *Youth Protection Act* reads as follows:

"If the tribunal orders that a child be entrusted to an alternative living environment under subparagraph e, e.1 or j of the first paragraph of section 91, the total period for which the child is so entrusted may not exceed, depending on the child's age at the time the order is made,

- (a) 12 months if the child is under two years of age;
- (b) 18 months if the child is two to five years of age; or
- (c) 24 months if the child is six years of age or over.

[...]"

In order to understand this section, it is important to know that subparagraph j of the first paragraph of section 91 refers to the situation in which a child is entrusted to an institution operating a rehabilitation centre or to a foster family.

What is meant by "[...] the total period for which the child is so entrusted may not exceed [...]" set out in section 91 of the Act?

This is the period of time a parent has in order to take all the necessary measures to put an end to the situation of danger in which the child finds himself and thus be able to regain custody of the child. Since a child cannot wait forever to return to his family, the *Act* has established these periods according to the child's age at the time of the placement.

When the periods set out in section 91.1 of the *Youth Protection Act* have expired and the parents' situation is unchanged, the director of youth protection must present the court with a permanent plan for the child, that is, a viable long-term plan to ensure continuity of care for the child and the best possible stability.

For example, if Leonie was placed with a foster family on May 21, 2020, when she was one year old, her parents will have 12 months from the date of placement (May 21, 2020) within which to show the court that the situation they were in when the child was placed has changed and that they will be able to take her back in the near future.

If the court is not satisfied with the changes observed in the child's family, the court must make sure that the child's return in the short term is impossible and that the permanent plan presented by the DYP is sustainable and in the best interests of the child.

Here are some examples of permanent plans the DYP might consider:

- Placement in a foster family until the age of majority;
- Placement with a significant person until the age of majority;
- Tutorship;
- Adoption.

Each of these permanent plans has its own particular characteristics. In that regard, if you would like to find out the differences between these plans or if you have any other questions regarding youth protection, don't hesitate to contact one of our lawyers practising in the field of youth law.

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The masculine is used to designate persons solely in order to simplify the text.