

Chapter 10

AN ACT TO AMEND THE CHILD AND FAMILY SERVICES ACT

(Assented to December 8, 2009)

The Commissioner of Nunavut, by and with the advice and consent of the Legislative Assembly, enacts as follows:

1. **This Act amends the *Child and Family Services Act*.**
2. **(1) The English version of section 1 is amended by striking out the period at the end of the definition “plan of care committee” and substituting a semi-colon.**
(2) Section 1 is amended by adding the following definition in alphabetical order:

“youth” means a person who has attained the age of 16 years but has not attained the age of majority. (*jeune*)

3. **The heading of Part I, preceding section 4, is struck out and the following substituted:**

PROTECTION OF CHILDREN AND YOUTH

4. **(1) Subsection 6(1) is repealed and the following substituted:**

Support services and agreements for youth

6. (1) Where the Director is satisfied that a youth cannot reside with his or her parents and needs assistance to provide for himself or herself, or is living in circumstances of a child who needs protection under subsection 7(3), the Director may enter into a written agreement with the youth to provide services or to assist others in providing services, or to assist that youth in obtaining services, to support and assist that youth to care for himself or herself.

(2) The English version of subsection 6(2) is amended by striking out “person” or “person’s” wherever they appear and substituting “youth” or “youth’s” respectively.

(3) The French version of that portion of subsection 6(2) which precedes paragraph (a) is struck out and the following substituted:

Services de soutien

(2) Les services destinés à encourager et à aider le jeune visé au paragraphe (1) peuvent comporter :

(4) The French version of paragraph 6(2)(c) is repealed and the following substituted:

- c) des services visant à améliorer la situation financière du jeune;

(5) The French version of paragraph 6(2)(g) is repealed and the following substituted:

- g) tout autre service sur lesquels s'entendent le directeur et le jeune.

(6) The following is added after subsection 6(2):

Support services – housing

(2.1) Services to be provided under paragraph (2)(d) may include placement of the youth in a foster home or child care facility or such other accommodation as may best meet the needs of the youth.

Agreements with third parties

(2.2) The Director may enter into an agreement with a third party for the provision of services to a youth pursuant to an agreement under subsection (1) or pursuant to an order under section 29.5.

(7) Subsection 6(3) is amended

- (a) by adding “or (2.2)” after “subsection (1)”, and
- (b) by striking out “person” and substituting “youth”.

5. The Act is amended by adding the following after section 29:

Youth Who Needs Protection

Declaration that youth needs protection

29.1. The Director may apply to the court for a declaration that a youth needs protection and for an order where the Director has reason to believe that a youth

- (a) cannot reside with his or her parents; and
 - (i) is unable to care for and protect himself or herself, and
 - (ii) is unable or unwilling to enter into an agreement with the Director under section 6 due to developmental, behavioural, emotional, mental or physical incapacity or disorder, or the effects of the use of alcohol, drugs, solvents or other similar substances, or
- (b) is living in circumstances of a child who needs protection under subsection 7(3).

Service of originating notice

29.2. The Director must serve a copy of the originating notice commencing an application under section 29.1 and an affidavit in support of the application on

- (a) the youth; and
- (b) the youth's parents, if their identities and whereabouts are known.

Application by interested person

29.3. An interested person may make an application under section 29.1 by serving an originating notice of the application and an affidavit in support of the application on the youth and on the Director.

Determination of whether youth needs protection

29.4. (1) On hearing an application under section 29.1, the court shall determine whether or not the youth who is the subject of the hearing needs protection.

Declaration that youth needs protection

(2) Where a court determines that a youth is in need of protection, the court shall make a declaration to that effect, and before making an order shall invite and consider representations on a plan of care for the youth by

- (a) the Director;
- (b) the youth; and
- (c) the youth's parents, if their identities and whereabouts are known, and the court considers it in the interests of the youth to hear from one or both of the youth's parents.

Plan of care for youth

(3) A plan of care in respect of a youth shall be based on services that may be provided pursuant to an agreement under section 6.

Order

29.5. (1) On making a declaration that a youth is in need of protection under subsection 29.4(2), the court may make one of the following orders that is, in the opinion of the court, in the best interests of the youth who is the subject of the hearing:

- (a) the youth be placed in the temporary custody of the Director for a specified period not exceeding 12 months, and the court may specify in the order
 - (i) any terms and conditions that the court considers necessary and proper, and
 - (ii) that the youth's parent or person having actual care of the youth at the time the declaration was made under subsection 29.4(2) be granted access to the youth on the terms and conditions that the court considers appropriate;
- (b) the youth be placed in the permanent custody of the Director, and the court may specify in the order
 - (i) any terms and conditions that the court considers necessary and proper, and

- (ii) that the youth's parent or person having actual care of the youth at the time the declaration was made under subsection 29.4(2) be granted access to the youth on the terms and conditions that the court considers appropriate.

Justice of the peace

- (2) A justice of the peace may not make an order under paragraph (1)(b).

Maintenance of youth

(3) Where a court makes an order under subsection (1), the order may provide that the youth's parent or a person who stands in the place of the youth's parent shall make a financial contribution specified in the order towards the costs incurred by the Director in maintaining and supervising the youth during the term of the order.

Further order

(4) Where a court makes an order under paragraph (1)(a), the Director, on serving notice on the persons mentioned in section 29.2, may bring the matter again before a court and the court may

- (a) extend the order for one or more periods;
- (b) vary the order or make any further order under subsection (1) that the court considers necessary and proper; or
- (c) discharge the order.

Copy of order to youth

(5) The Director shall provide a certified copy of any declaration made under subsection 29.4(2) and any order made under subsection (1) to the youth who is the subject of the declaration or order.

Placement of youth and implementation of plan of care

(6) Where a youth is placed in the temporary or permanent custody of the Director pursuant to an order under subsection (1), a Child Protection Worker shall

- (a) on behalf of the Director, make arrangements as soon as possible to place the youth in such accommodations as are specified in the order or the plan of care to best meet the needs of the youth; and
- (b) monitor the plan of care to ensure that it is implemented according to its terms.

Application of section 47

(7) Section 47 applies where a youth is placed in the temporary custody of the Director pursuant to an order under paragraph (1)(a), and in applying section 47,

- (a) a reference to a child shall be read as a reference to a youth; and
- (b) a reference to paragraph 28(9)(c) shall be read as a reference to paragraph (4)(c).

Application of sections 48 and 49

(8) Sections 48 and 49 apply where a youth is placed in the permanent custody of the Director pursuant to an order under paragraph (1)(b), and in applying sections 48 and 49,

- (a) a reference to a child shall be read as a reference to a youth; and
- (b) the reference to 16 years in paragraph 48(1)(a) shall be read as a reference to 19 years.

Application of Part IV

29.6. With respect to an order made under section 29.5 or an agreement entered into under section 6, the provisions of Part IV, other than subsections 84(2), (3) and (4), apply to a youth in the same way that they apply to a child, and any reference to a child or children shall be read as including a reference to a youth.

6. **Subsection 47(3) is amended by striking out** “beyond the day on which the child attains the age of 16 years, but not beyond the day on which the child attains the age of 18 years” **and substituting** “but not beyond the day on which the child attains the age of majority”.