

Lesson Plan 1: Youth rights at home and parental rights

Home a safe haven: Youth Safety at home

Introduction

Under parental authority, parents have a duty to educate and take care of youth until they are 18¹. This refers to parents' rights and responsibilities to make decisions that affect their children's well-being². They are allowed to punish you as part of their duty to protect and educate you³. The thing is, parents are human beings and that means that they may make mistakes mainly unintentionally. But how far can your parents go when punishing you? The thing is youth should know their rights and how to deal with parents.

Topic 1: Family Unit Defined

In the past, the basic family structure was the nuclear family. These families consisted of a husband, wife, and their children. Things have changed in the "typical Canadian family" over the past few years. When a family breaks up, a lot of changes occur, and a number of decisions must be made. This affects all members of the family. Family mediations are helpful in this process. All members of the family have rights and responsibilities.

Structure of the Family in Canada

Family structure refers to the combination of relatives that comprise a family. Family structure is a term that describes the members of a household who are linked by marriage or bloodline and is typically used in reference to at least one child residing in the home under the age of 18.

Type of families

Currently, fully half of all families do not meet the definition of nuclear family. Family law is a complicated aspect of law in Canada. The structure of the family is ever fluctuating. A family does not look the same as it did even 10 years ago. The basic family structure consisted of a mother, father and their children. Usually families were formed through marriage. But things have changed in the "typical Canadian family." Statistics Canada now defines family as married couples with or without children, unmarried couples in a common law relationship with or without children as well as lone or single parents with children⁴. People are marrying later in life because of a desire to have a good education and career before starting a family. Families are now smaller, having only one or two children. New relationships also make up Canadian families; these include common law and same-sex partners, blended families, extended families where grandparents share the home and two income families with or without children. We also have households that include one or more family members from a generation; adoptive families;

¹ *Code civil du Québec*, RLRQ, c C-1991, art 153, 598-600; Jean Pineau, *La famille*, Montréal, Éditions Thémis, 2006 à la p 838.

² *Code civil du Québec*, RLRQ, c C-1991, art 158; Jean Pineau, *La famille*, Montréal, Éditions Thémis, 2006 au para 516.

³ *Code criminel*, LRC, (1985) ch C-46, art 43.

⁴ <https://www23.statcan.gc.ca/imdb/p3Var.pl?Function=Unit&Id=32746&>

foster families; and families where children are raised by their grandparents or other relatives. Each has distinctive advantages and challenges.

Family Day is a public holiday observed in the Canadian provinces of Alberta, Ontario, Saskatchewan, and New Brunswick on the third Monday of February, where it is a day off for the general population, and schools and most businesses are closed. In British Columbia, Family Day falls on the second Monday of February. This holiday celebrates the importance of families and family life to people and their communities.

Topic 2: Parental Authority: Rights and Responsibilities

The law gives parents certain rights and responsibilities toward their children. Rights are what the law says you can get⁵. While they are living together, parents use their parental authority together, whether or not they are married⁶. Under parental authority, parents have these rights and responsibilities toward their children:

- custody⁷
- supervision⁸
- physical and psychological protection⁹
- health and safety¹⁰
- education¹¹
- providing food¹²
- caring for them¹³

Parental authority refers to parents' rights and responsibilities toward their children from the minute they are born until they turn 18¹⁴. Under their parental authority, parents make decisions that affect their children's well-being¹⁵.

Parents and punishment rights

In Canada, parents can punish children by making them stay home or taking away things like cell phones. The law states that your parents can use force to discipline you, but it must be

⁵ Hubert Reid, *Dictionnaire de droit québécois et canadien: avec table des abréviations et lexique anglais-français*, 5e édition, Montréal, Wilson & Lafleur, 2016, *sub verbo* « Droit objectif » et Droit subjectif ».

⁶ *Code civil du Québec*, RLRQ, c C-1991, art 600.

⁷ *Code civil du Québec*, RLRQ, c C-1991, art 599 al.1.

⁸ *Code civil du Québec*, RLRQ, c C-1991, art 599 al.1.

⁹ *Code civil du Québec*, RLRQ, c C-1991, art 177; Jean Pineau, *La famille*, Montréal, Éditions Thémis, 2006 au para 519.

¹⁰ Jean Pineau, *La famille*, Montréal, Éditions Thémis, 2006 au para 517.

¹¹ *Code civil du Québec*, RLRQ, c C-1991, art 599 al.1.

¹² *Code civil du Québec*, RLRQ, c C-1991, art 599 al.2.

¹³ *Code civil du Québec*, RLRQ, c C-1991, art 599 al.2.

¹⁴ *Code civil du Québec*, RLRQ, c C-1991, art 153, 598-600; Jean Pineau, *La famille*, Montréal, Éditions Thémis, 2006 à la p 838.

¹⁵ *Code civil du Québec*, RLRQ, c C-1991, art 158; Jean Pineau, *La famille*, Montréal, Éditions Thémis, 2006 au para 516.

reasonable in the circumstances¹⁶. The Supreme Court of Canada, which is the highest court in the country, states that the use of force is reasonable if:

It is used to discipline you, and you are able to understand the punishment. Your age, sex, state of health, and the physical and psychological effects of the punishment are all taken into account when deciding if the force is reasonable.¹⁷

In some cases, they can also use force, but they must follow very strict rules. For example, it is legal to spank the child as long as it meets certain legal parameters. The law in Canada recognizes some situations where a parent or legal guardian may use reasonable force on a child. This defence is provided for Section 43 of the Criminal Code of Canada which reads:

- physical punishment of a child under two¹⁸
- physical punishment of a teenager¹⁹

Decision Making in case of Divorce or Break ups

If the parents don't live together anymore and only one of them has custody of the children, the other parent still keeps parental authority²⁰.

- The parent who does not have custody still has all the other rights and responsibilities of parental authority (e.g., education, providing food, decisions about health care) ²¹.
- The parent who has custody decides where the children will live and go to school²².

New partners of a parent, such as boyfriends or girlfriends, do not have parental authority, even if they are acting like a parent²³.

Topic 3: Your Rights as a Child

Children's rights are human rights for children. The 1989 Convention on the Rights of the Child is a treaty that recognizes specific rights for children.

¹⁶ *Code criminel*, LRC, (1985) ch C-46, art 43.

¹⁷ *Canadian Foundation for Children, Youth and the Law c Canada (Procureur général)*, [2004] 1 RCS 76 (CSC) au para 34.

¹⁸ *Canadian Foundation for Children, Youth and the Law c Canada (Procureur général)*, [2004] 1 RCS 76 (CSC) aux paras 24-25, 37.

¹⁹ *Canadian Foundation for Children, Youth and the Law c Canada (Procureur général)*, [2004] 1 RCS 76 (CSC) au para 37.

²⁰ *Code civil du Québec*, RLRQ, c C-1991, art 605; voir par exemple *Droit de la famille — 09746*, 2009 QCCA 623 au para 46.

²¹ *Code civil du Québec*, RLRQ, c C-1991, art 605; *Droit de la famille — 09746*, 2009 QCCA 623 au para 45.

²² Jean Pineau, *La famille*, Montréal, Éditions Thémis, 2006 au para 522; *Droit de la famille — 082571*, 2008 QCCA 1965 au para 30.

²³ *Droit de la famille — 102247*, 2010 QCCA 1561 aux paras 45, 70; *Code civil du Québec*, RLRQ, c C-1991, art 599, 600: Seulement les parents; Jean Pineau, *La famille*, Montréal, Éditions Thémis, 2006 au para 512 in fine.

The Convention on the Rights of the Child defines a child as a “human being below the age of 18, unless national laws recognize an earlier age of majority”²⁴.

- Right to Survival– to life, health, nutrition, name, nationality²⁵.
- Right to Development – to education, care, leisure, recreation, cultural activities.²⁶
- Right to Protection – from exploitation, abuse, neglect, harmful substances²⁷
- Right to Participation – to expression, information, thought, religion²⁸.
- Specific protections and provisions for vulnerable populations such as Indigenous children²⁹ and children with disabilities³⁰.

Knowing Your Rights and Protect Yourself

What are the consequences if my parents are abusive and punish me physically?

There are risks and consequences involved with this behavior. A parent or other person who uses too much force to punish a child can face serious consequences. You have legal protections against bad treatment, such as physical, sexual or psychological abuse³¹. At any time, if your parents fail to respect these rules or if you fear for your safety you can contact the police or The Director of Youth Protection (DYP)³².

When can I get married?

By law, teenagers must have the court’s permission to marry³³. Also, the minimum age for marriage is 16³⁴. But you can marry as young as 18 without your parents’ consent³⁵.

If as a teenager, I am married, a parent, or live alone, do my parents still have a right to tell me what to do and make decisions for me?

If you are married before 18, you are automatically fully emancipated³⁶. This should mean that you can run off and get married just to have the same freedoms as an adult.

Can my parents open mail addressed to me?

²⁴ *Convention relative aux droits de l’enfant*, 2 novembre 1989, art 18.

²⁵ *Convention relative aux droits de l’enfant*, 2 novembre 1989, art 6, 7, 8, 24 et 27.

²⁶ *Convention relative aux droits de l’enfant*, 2 novembre 1989, art 25, 29 et 31.

²⁷ *Convention relative aux droits de l’enfant*, 2 novembre 1989, art 19, 32, 34, 36 et 39.

²⁸ *Convention relative aux droits de l’enfant*, 2 novembre 1989, art 13 et 14.

²⁹ *Convention relative aux droits de l’enfant*, 2 novembre 1989, art 17, 29 et 30.

³⁰ *Convention relative aux droits de l’enfant*, 2 novembre 1989, art 2 et 23.

³¹ *Loi sur la protection de la jeunesse*, RLRQ c P-341, art 38.

³² *Loi sur la protection de la jeunesse*, RLRQ c P-341, art 51.

³³ *Code civil du Québec*, RLRQ, c C-1991, art 373 (2).

³⁴ *Loi d’harmonisation no 1 du droit fédéral avec le droit civil*, LC 2001, art 6, 4; *Loi sur le mariage civil*, LC 2005, art 2.2.

³⁵ *Code civil du Québec*, RLRQ, c C-1991, art 373. Le mineur pleinement émancipé n’a toutefois pas besoin du consentement (art. 176 C.c.Q.)

³⁶ *Code civil du Québec*, RLRQ, c C-1991, art 175 al 1.

It is illegal to open, hold on to or delay the receipt of someone else's mail. Even if someone else's mail gets put into your mailbox accidentally, it is your responsibility to see that it gets to the right person, by giving it to them yourself or giving it to a Canada Post mailman or its agent mean that they can run off and get married just to have the same freedoms as an adult.

At what age can I get piercings or tattoos?

In Quebec, it's not illegal for a minor to get a body piercing or a tattoo. A "minor" is a person under 18³⁷. But this doesn't mean that a salon will give a piercing or tattoo to a minor. Salons are allowed to have their own policies on how they will deal with minors. They are even allowed to refuse services to all minors. If you are under 18, it is better to have your parent's permission to get a tattoo.

Note that in Canada the age for getting a tattoo may differ between provinces.

At what age can I buy or smoke cigarettes?

You are not allowed to buy cigarettes if you are under 18³⁸. The same rules usually apply to all tobacco products: cigarettes, electronic cigarettes, cigars and shisha³⁹. You are also not allowed to say you are older so you can buy cigarettes⁴⁰. Salespeople can ask you for proof of age⁴¹. If you are under 18, you are also not allowed to ask an adult to buy cigarettes for them⁴². Salespeople can refuse to sell tobacco products to an adult if they think the adult is buying them to sell or give them to someone under 18⁴³. If you are under 18 and don't follow these rules are breaking the law and can be fined⁴⁴.

Can I keep the money I make?

Yes, after 14, when it comes to money you earn from a job, you can decide what to do with it: your parents can't force you to save it or spend it in a certain way⁴⁵. As a general rule, the law says that your parents are responsible for managing your money, such as money you inherit⁴⁶. You don't need your parents' permission to spend your savings or allowance on what are ordinary needs for someone your age⁴⁷. But you might need your parents' permission if you want to buy something expensive⁴⁸. At your age, you can open a bank account and make deposits⁴⁹.

Can I choose which parent to live with?

At any age, you have the right to give your opinion. If you are mature enough (over 12 years

³⁷ *Code civil du Québec*, RLRQ, c C-1991, art 153.

³⁸ *Loi concernant la lutte contre le tabagisme*, RLRQ c L-62, art 13.2.

³⁹ *Loi concernant la lutte contre le tabagisme*, RLRQ c L-62, art 1 al 1, 1.1 al 3 sub verbo « tabac ».

⁴⁰ *Loi concernant la lutte contre le tabagisme*, RLRQ c L-62, art 13.2.

⁴¹ *Loi concernant la lutte contre le tabagisme*, RLRQ c L-62, art 13, 13.1, 14.

⁴² *Loi concernant la lutte contre le tabagisme*, RLRQ c L-62, art 14.4.

⁴³ *Loi concernant la lutte contre le tabagisme*, RLRQ c L-62, art 14.3.

⁴⁴ *Loi concernant la lutte contre le tabagisme*, RLRQ c L-62, art 43.2.1 al 1.

⁴⁵ *Code civil du Québec*, RLRQ, c C-1991, art 156.

⁴⁶ *Code civil du Québec*, RLRQ, c C-1991, art 208 à 210.

⁴⁷ *Code civil du Québec*, RLRQ, c C-1991, art 220.

⁴⁸ *Code civil du Québec*, RLRQ, c C-1991, art 220. *a contrario*

⁴⁹ *Loi sur les banques*, LC 1991, c 46, art 437.

old), you have the right to give your opinion on how much time you want to spend with each parent⁵⁰. Here are some ways you can do this:

- Talk directly to your parents.
- Talk to the experts involved in your parents' case (for example, the mediator, psychologist or social worker)⁵¹.
- Ask to speak in private with the judge who will be hearing your parents' case.⁵²
- Get your own lawyer, who will speak for you⁵³.

Can I choose to get vaccinated or not?

Vaccine is always recommended by government officials, but it has never been mandatory. If you are 14 and above, you can refuse to be vaccinated⁵⁴. Health care professionals need people's consent (agreement) to vaccinate them. For youth under 14, health care professionals get consent from their parents or who can make decisions for the young person⁵⁵.

At what age I can decide for abortion?

It is important to know that abortion is legal and free. In other words, women have the right to end a pregnancy. This is called voluntary termination of pregnancy or, simply, an abortion. As of age 14, you can decide on your own⁵⁶. You also have the right to decide whether to continue the pregnancy. You do not need anyone else's permission, either from your parents, partner, friends or health professionals. They cannot make the decision in your place, and they cannot force you to have an abortion or continue the pregnancy. However, if you have to stay in a health care institution, hospital or clinic for more than 12 hours, your parents or guardian must be notified⁵⁷. If you are 13 years old or younger, you cannot decide on your own. You need permission from your parents or guardian to have an abortion⁵⁸. If your parents don't agree on what to do⁵⁹, or if you and your parents do not agree⁶⁰, a court can make the decision in your parents' place.

Note that abortion is usually considered necessary care for a person's health. So, a 14-year-old girl who wants an abortion does not need her parents' permission⁶¹.

What kind of abuse can I report to the police or higher authorities?

⁵⁰ *Code civil du Québec*, RLRQ, c C-1991, art 34; *Code de procédure civile*, RLRQ, c C-25, art 90, 160, 290-291.

⁵¹ *Code de procédure civile*, RLRQ, c C-25, art 617.

⁵² *Code civil du Québec*, RLRQ, c C-1991, art 34; *Code de procédure civile*, RLRQ, c C-25, art 290-291.

⁵³ *Code de procédure civile*, RLRQ, c C-25, art 184.

⁵⁴ *Code civil du Québec*, RLRQ, c C-1991, art 14 (2).

⁵⁵ *Code civil du Québec*, RLRQ, c C-1991, art 14 et 18.

⁵⁶ *Code civil du Québec*, RLRQ, c C-1991, art 14 (2); *R c Morgentaler*, (1988) 1 RCS 30; *Tremblay c Daigle*, (1989) 2 RCS 530.

⁵⁷ *Code civil du Québec*, RLRQ, c C-1991, art 14 (2).

⁵⁸ *Code civil du Québec*, RLRQ, c C-1991, art 12, 14, 17 et 18.

⁵⁹ *Code civil du Québec*, RLRQ, c C-1991, art 196.

⁶⁰ *Code civil du Québec*, RLRQ, c C-1991, art 16.

⁶¹ *Code civil du Québec*, RLRQ, c C-1991, art 14 (2); *R c Morgentaler*, (1988) 1 RCS 30; *Tremblay c Daigle*, (1989) 2 RCS 530.

The Director of Youth Protection can become involved when a child's safety or development is in danger⁶² due to physical, sexual, psychological or other forms of abuse⁶³. All forms of abuse carry consequences and the authorities are there to protect you from them. If an adult, or older child, touches you anywhere on your body with a sexual purpose, they are committing sexual interference which is a form of sexual abuse and they need to be reported.

If an adult, or older child, makes verbal threats, makes you feel intimidated, socially isolated, or exploited then they could be committing what is considered emotional abuse⁶⁴. Your parents or guardians are responsible for making you feel safe. If they fail to protect you from family violence, whether it be from another parent, an uncle, an aunt, a grandparent, a family friend or even a sibling, older or younger, then they are failing in their duty to properly care for you. If you are unsure whether or not your circumstances constitute abuse you can call one of the help-lines to determine your next steps.

The DYP has offices and can become involved in the different situations described in the law. Anyone who suspects physical or sexual abuse must report it to the DYP, no matter what this person's relationship to the child⁶⁵. The duty to report goes even further for people such as teachers, daycare educators and healthcare professionals. They have a duty to report all situations that put a child's safety or development in danger, including psychological abuse or neglect⁶⁶. The DYP must decide if it will use the information received to investigate further and possibly recommend protection measures. If the DYP decides not to act after receiving a report, it will retain the information you provided for two years.

Topic 4: Emancipation: When You Get the Legal Rights of an Adult

There must be very good reasons (decided by court) to give such important rights to someone who hasn't reached adulthood⁶⁷. The law does not simply emancipate teenagers who are upset about their curfews or whose parents forbid them from seeing some people. Emancipation exists to protect a teenager's rights in very specific circumstances⁶⁸. The emancipation is a drastic solution for dealing with very particular situations, which often have to do with youth protection. It is generally provided to older teenagers close to adulthood who are very mature and can take on important responsibilities.

There are two types of emancipation:

- **Simple emancipation**⁶⁹ is a legal process that gives teenagers many important rights

⁶² *Loi sur la protection de la jeunesse*, RLRQ c P-341, art 1. b), 32, 49 et 51.

⁶³ *Loi sur la protection de la jeunesse*, RLRQ c P-341, art 38, 38.1.

⁶⁴ *Loi sur la protection de la jeunesse*, RLRQ c P-341, art 38 (2) c).

⁶⁵ *Loi sur la protection de la jeunesse*, RLRQ c P-341, art 39.1.

⁶⁶ *Loi sur la protection de la jeunesse*, RLRQ c P-341, art 39.

⁶⁷ *Code civil du Québec*, RLRQ, c C-1991, art 175 al 2; *Droit de la famille — 101530*, 2010 QCCS 2976 au para 20.

⁶⁸ *Code civil du Québec*, RLRQ, c C-1991, art 33; *Droit de la famille — 101530*, 2010 QCCS 2976 au para 20 in fine.

⁶⁹ *Code civil du Québec*, RLRQ, c C-1991, art 167-174.

but not full adult status⁷⁰.

- **Full emancipation**⁷¹ is a legal process that gives teenagers almost all the rights of an adult (but not all as explained below)⁷²

A teenager who has been emancipated is called an “emancipated minor.”⁷³

Emancipated minors only have certain rights, including those found in the *Civil Code of Québec*⁷⁴, such as signing contracts, living away from their parents, making a will or suing someone. Emancipated minors can also obtain a driver’s license without their parents’ permission⁷⁵. Fully emancipated minors are entitled to welfare payments, etc⁷⁶. Emancipation has no effect on a teenager’s rights under other laws. For example, emancipated minors do not have the right to vote⁷⁷, buy cigarettes⁷⁸ or go to bars⁷⁹. Also, emancipated minors will not be tried as adults if charged with a crime⁸⁰.

⁷⁰ *Code civil du Québec*, RLRQ, c C-1991, art 170, 175 a contrario, 176 a contrario.

⁷¹ *Code civil du Québec*, RLRQ, c C-1991, art 175-176.

⁷² *Code civil du Québec*, RLRQ, c C-1991, art 176.

⁷³ Terme utilisé par le législateur dans: *Code civil du Québec*, RLRQ, c C-1991, art 172 et 173; « Mineur qui, par le mariage ou une décision de justice, n’est plus soumis à l’autorité parentale. » Hubert Reid, *Dictionnaire de droit québécois et canadien: avec table des abréviations et lexique anglais-français*, 5e édition, Montréal, Wilson & Lafleur, 2015, *sub verbo* « mineur émancipé ».

⁷⁴ Le mineur émancipé exerce ses droits comme s’il était majeur, mais n’est pas majeur. *Code civil du Québec*, RLRQ, c C-1991, art 176.

⁷⁵ *Code de la sécurité routière*, RLRQ c C-242, art 68 al 2.

⁷⁶ *Loi sur l’aide aux personnes et aux familles*, RLRQ c A-1311, art 23 al 1(1), 27 al 1(3).

⁷⁷ *Loi électorale*, RLRQ c E-33, art 1 al 1(1); *Loi électorale du Canada*, LC 2000 c 9, art 3.

⁷⁸ *Loi concernant la lutte contre le tabagisme*, RLRQ c L-62, art 13.2.

⁷⁹ *Loi sur les infractions en matière de boissons alcooliques*, RLRQ c I-81, art 103.9, 103.2.

⁸⁰ *Loi sur le système de justice pénale pour les adolescents*, LC 2002, art 2 « adolescent ».