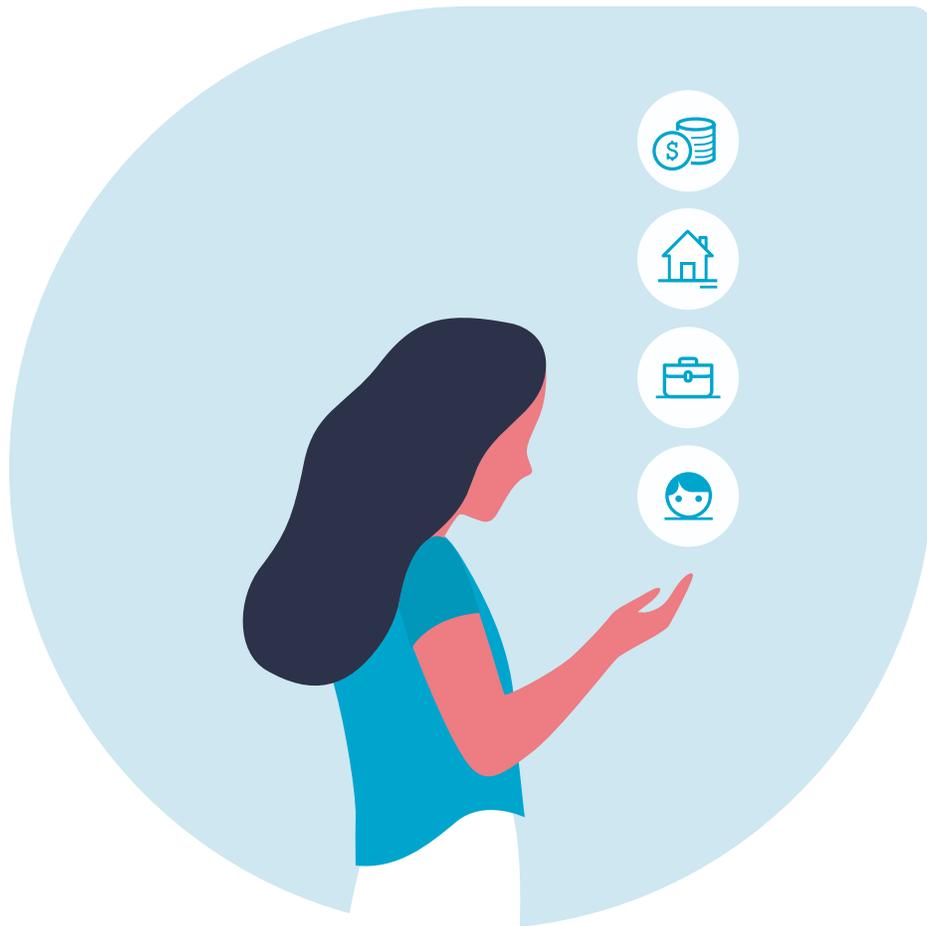


# Women and the Criminal Justice System

Money, housing, work, children and criminal records:  
your rights and responsibilities



éducaloi





### **About Éducaloi**

Éducaloi is a non-profit organization that explains the law to Quebecers in everyday language.

### **About the Société Elizabeth Fry du Québec**

The Société Elizabeth Fry du Québec is a community organization whose mission is to help women who have been in trouble with the law.

### **Important note**

The information in this guide is not a legal opinion and does not replace the advice of a lawyer.

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# Table of Contents

<b>Chapter 1</b>    <b>Money</b>	<b>9</b>
<b>Bills and monthly payments</b>	<b>9</b>
1.1 What will happen if I don't pay my bills?	
1.2 Can I cancel my telephone, Internet or cable?	
1.3 Can I stop paying my home insurance?	
1.4 Can I cancel the electricity or gas service to my home?	
1.5 Can I cancel my car lease?	
1.6 How can I pay my bills if I decide to keep the services while I'm in prison?	
<b>Debts (credit cards, social assistance, student loan, income tax, etc.)</b>	<b>10</b>
1.7 What will happen if I don't pay my debts?	
1.8 Will my debts be erased after a certain amount of time?	
1.9 How can I continue to pay my debts while I'm in prison?	
1.10 What can I do if I'm unable to pay my debts while I'm in prison?	
<b>Fines</b>	<b>12</b>
1.11 How can I find out how much I have to pay and when?	
1.12 Do I have to pay my fines when I'm in prison?	
1.13 What should I do if I can't pay my fines once I'm released from prison?	
1.14 What will happen if I don't pay my fines or if I don't respect my payment arrangements?	
<b>Chapter 2</b>    <b>Housing</b>	<b>15</b>
2.1 Do I have to tell my landlord that I'm in prison?	
2.2 How can I redirect my mail to another address?	
2.3 Can my landlord end my lease because I'm in prison?	
2.4 What if I want to keep my apartment?	
2.5 If I don't pay my rent, when can my landlord cancel my lease?	
2.6 Can the landlord put my things out on the street if I don't pay my rent?	
2.7 What if I don't want to keep my apartment while I'm in prison?	

<b>Chapter 3</b>    <b>Work</b>	<b>18</b>
3.1 Do I have to tell my employer that I'm in prison?	
3.2 Can my employer fire me because I'm in prison?	
<b>Chapter 4</b>    <b>Children</b>	<b>20</b>
<b>My relationship with my children</b>	<b>20</b>
4.1 Where are my children while I'm in prison?	
4.2 Do I have anything to say about what happens with my children?	
4.3 Can I see my children?	
<b>When the DYP is involved</b>	<b>22</b>
4.4 I don't understand what's going on in my file. What can I do?	
4.5 Do I have to do what the DYP asks?	
4.6 Can someone accompany me when I speak to a DYP worker?	
4.7 I believe that the DYP worker is not doing their work properly or isn't respecting my rights. What can I do?	
4.8 Do I have to continue paying my DYP contribution if my children are taken into care while I'm in prison or a halfway house?	
4.9 Will I continue to receive my family allowance payments if my children are taken into care?	
<b>Rights of grandmothers in prison</b>	<b>24</b>
4.10 I want to see my grandchildren, but their parents are refusing. What can I do?	
<b>Chapter 5</b>    <b>Impacts of a Criminal Record</b>	<b>25</b>
<b>Impacts on housing</b>	<b>25</b>
5.1 Can a landlord refuse to rent an apartment to me because I have a criminal record?	

## **Impacts on work** 25

- 5.2 Can an employer ask me whether I have a criminal record?
- 5.3 Do I have to tell my employer that I have a criminal record?
- 5.4 Can an employer check whether I have a criminal record?
- 5.5 Can an employer fire me or refuse to hire me if I have a criminal record?
- 5.6 What can I do if I believe an employer is discriminating against me because of my criminal record?

## **Impacts on travel** 26

- 5.7 Can my criminal record prevent me from travelling?
- 5.8 Can I enter the United States?

## **Impacts on insurance** 27

- 5.9 Can an insurance company refuse to insure me because of my criminal record?

## **Erasing your record** 27

- 5.10 Is my criminal record erased after a certain amount of time?
- 5.11 If I'm not convicted after being held in preventive detention, what can I do to remove any information about my problems with the law?

## **Chapter 6** | **I've Served My time . . . Is There Anything Else?** 29

- 6.1 When I leave prison, can the police arrest me again?
- 6.2 When I leave prison, can anyone claim money from me for the crime I committed?

<b>Appendix</b>	<b>30</b>
<b>Section 1 :</b> Telephone calls	30
<b>Section 2 :</b> Visits	31
<b>Section 3 :</b> Lawyers	31
<b>Section 4 :</b> Paying bills	32
<b>Section 5 :</b> Memos	32
<b>Section 6 :</b> Resources	33

## Introduction

When a woman enters prison or a halfway house, she leaves behind part of her life, such as her home, her job or her children. Not knowing what is happening in her life outside prison or the halfway house can be extremely stressful.

The purpose of this guide is to help women in prison or in a halfway house maintain a certain measure of control over their lives. It answers practical legal questions about their reality. It helps women better understand their rights and responsibilities so they can make informed decisions.

Frontline workers can use this guide to provide information during workshops or their day-to-day work.

### **Important!**

This guide answers women's most common questions but doesn't address all of the problems they might encounter while in prison or a halfway house. It is essential for women and frontline workers to learn more by using the resources suggested in this guide (refer to the Appendix, p. 33). They can also contact the Société Elizabeth Fry du Québec free of charge if they have more specific questions.



## Bills and monthly payments

A woman who enters prison or a halfway house often has bills to pay, or monthly payments to make, to companies that provide various services:

- telephone
- cable and Internet
- electricity or gas
- car lease
- insurance

Payments must be made on time to avoid overdue accounts and interest charges.

### 1.1 What will happen if I don't pay my bills?

**You will accumulate debt if you don't pay your bills on time** (see Debts, p. 11).

You must pay all amounts owing on these accounts, even if you haven't used the services. You might also have to pay interest or late fees in addition to the original amount due.

**Companies will cut services** after a certain amount of time if you don't pay what you owe, but this doesn't cancel your debts.

**Car lease:** If you don't make your lease payments every month, the car company can cancel your contract and take back the vehicle. It can also ask you to pay back everything you owe. In some cases, the car company can ask you to pay all amounts due under the contract until the end of the lease agreement.

### 1.2 Can I cancel my telephone, Internet or cable?

**Yes.** You can call the company and ask to cancel your contract. To learn how to make this call from prison, refer to the Appendix, p. 30.

After you cancel the contract, you no longer have to pay for the service, and you won't accumulate debt.

You might have to pay a fee for cancelling your contract.

### 1.3 Can I stop paying my home insurance?

**Yes.** You can call your insurance company and ask to cancel your contract. Provide your name, address and policy number (if possible) to make things easier. To learn how to make this call from prison, refer to the Appendix, p. 30.

You might have to pay a fee for cancelling your contract.

**Important:** if you cancel your home insurance, but keep your apartment, you will no longer be covered in case of an incident (for example, robbery, damage caused by a flood in your apartment).

#### 1.4 Can I cancel the electricity or gas service to my home?

**Important!** If you cancel electricity or gas while you're away, you might run into problems with your home, such as pipes freezing during the winter. Even if you're a tenant, you must pay for the damage. The Tribunal administratif du logement (formerly known as Régie du logement or rental board) can also order you to heat your apartment. If you still want to stop this service, call your electricity or gas company. (To learn how to make this call from prison, refer to the Appendix, p. 30.)

If you cancel the service and you still have a lease, the bills will be sent to the landlord, who might claim this amount from you afterward.

#### 1.5 Can I cancel my car lease?

**Yes, but you'll probably have to pay a heavy penalty** to the company leasing the car. You must also arrange to return the car.

**Another option is to transfer your car lease (lease takeover).** This means another person would use your car and take over your payments. You need the car company's permission before doing this. You must also provide the name and address of the person who will be taking over your contract.

#### 1.6 How can I pay my bills if I decide to keep the services while I'm in prison?

You can keep the services while you're in prison (for example, if you'll only be in prison a short time and you're able to pay the bills).

**There are different ways to pay your bills** (see Appendix, p. 32).

### **Debts (credit cards, social assistance, student loan, income tax, etc.)**

Some women have debts before they enter prison. These may be due, for example, to:

- credit cards
- false déclarations to the ministère du Travail, de l'Emploi et de la Solidarité sociale (department of labour, employment and social solidarity) which administers social assistance (welfare) payments
- mortgages
- unpaid income tax
- unpaid services (Hydro-Québec, Videotron, Bell, etc.)
- student loans

**It's a bad idea to just let time pass and hope a debt will disappear.** Big companies and the government often have ways to claim money from people who don't pay their bills. Also, a debt continues to increase if nothing's done about it.

The next section explains the consequences of not paying debts and the options available.

> **If you have fines to pay, see Fines, p. 12.**

## 1.7 What will happen if I don't pay my debts?

**In most situations, interest or late fees will accumulate** if you don't make your payments as required by a contract or a payment agreement you've accepted.

Late payments can affect your credit score, so it might be difficult to borrow money or obtain credit after you're released from prison.

Some government agencies have specific repayment conditions and collection methods. For example, this is the case if you owe money to the ministère du Travail, de l'Emploi et de la Solidarité sociale for having made false declarations. They can deduct an amount from your welfare benefits to pay back the debt. If you have a debt for unpaid taxes, Revenu Québec can use any amounts it would normally pay you, such as tax refunds or the solidarity tax credit, to pay that debt.

Anyone you owe money to can sue you in court to claim their money. They can also have some of your property seized, if you don't pay after a court orders you to do so.

## 1.8 Will my debts be erased after a certain amount of time?

**No. Your debts won't be erased after a certain amount of time,** and this will affect your credit score.

However, anyone you owe money to has a time limit for claiming it. This time limit is usually three years beginning from the date the debt is due. It could be longer in certain cases (for example, for student loans and income tax).



### **Important!**

Companies or the government can take legal action against you even after the three-year time limit if you have acknowledged that you owe them money. There are different ways of acknowledging this. Here are some examples:

- You repaid part of your debt.
- You spoke with a company or government representative by telephone and asked for extra time to pay your debt.

Once you acknowledge you owe them money, the time limit starts over.

For all these reasons, it's a bad idea to simply let time pass and hope your debts will disappear. Big companies and the government often have the means to file a claim against you. Your debt will only continue to increase over the years.

## 1.9 How can I continue to pay my debts while I'm in prison?

Refer to the Appendix, p. 32.

### 1.10 What can I do if I'm unable to pay my debts while I'm in prison?

**You can try to negotiate a payment arrangement** (for example, spread out the payments over several months). This won't be possible in all situations, but at least you can try.

Contact the Société Elizabeth Fry du Québec to learn more. (Refer to the Appendix, p. 30 to learn how to make a call).

## Fines

A woman who goes to prison might have unpaid fines. This section answers questions about two types of fines:

- fines ordered by a judge following a criminal conviction
- fines for a provincial offence (for example, an infraction under the Highway Safety Code, such as going through a red light)

The rules for municipal fines (for example, for loitering in a park at night or a parking ticket) depend on the city. Contact the city where the ticket was issued for more information.

### 1.11 How can I find out how much I have to pay and when?

**You can call the Bureau des infractions et amendes**, also known as the “percepteur des amendes” (fine collection office) at 1-877-Amendes (263-6337). Refer to the Appendix, p. 30 to learn how to make this call from prison.

The person who answers your call can tell you the amount to pay and the date the payment is due. You must provide your date of birth and answer a few questions for identification purposes.

**Important:** The Bureau des infractions et amendes can't provide information on tickets issued by a city. For this information, you'll have to contact the city where you got the ticket.

### 1.12 Do I have to pay my fines when I'm in prison?

**No**, but you must call the Bureau des infractions et amendes to let them know you're in prison and that you can't pay. They'll extend the deadline for payment depending on your situation:

- **If you had a payment arrangement before going to prison**, you can ask them to suspend the payments until you're released.
- **If you're not yet past the deadline for paying a fine**, you can ask for more time so you won't be late paying when you're released from prison.
- **If you're past the deadline for paying a fine**, you can ask for more time before the government takes action against you (for example, seizes your property).

### 1.13 What should I do if I can't pay my fines once I'm released from prison?

**As soon as you're released from prison, you must call the Bureau des infractions et amendes to try to find a solution**, released from prison, you must call the Bureau des infractions et amendes to try to find a solution, if you don't have enough money to pay your fines. Depending on your situation, the Bureau might suggest an agreement

- Giving you more time to pay.
- Allowing you make monthly payments
- Allowing you to pay your fines through compensatory work (community work). This option is only available if you can't pay and you don't have any property the government can seize.

Additional fees could be added if you don't do anything to deal with the problem.

#### **About compensatory work (community work)**

You can, at any time, decide to pay the fine instead of doing compensatory work. If you don't finish your compensatory work, you can pay whatever is left of the fine.

**Important!** If you don't do your compensatory work, and don't pay the fine, you could be arrested and sentenced to prison time.

### 1.14 What will happen if I don't pay my fines or if I don't respect my payment arrangements?

If you don't pay what you owe, the Bureau des infractions et amendes is allowed do the following:

- Seize your property (for example, your furniture, car or income).
- Ask a judge to issue a warrant ordering you to appear before the Bureau des infractions et amendes. In some regions, the Bureau can also ask a judge to order a prison sentence.

If you owe money for a fine under the Highway Safety Code, your driver's licence could be suspended.



Women often have many questions about housing. It's especially stressful for women who have sole responsibility for paying the rent. They might want to keep their apartment so they have a place to live after being released from prison (for example, if the prison sentence is short) or they might wish to give up the apartment so they don't have to pay rent.

> See Chapter 5 to learn about the impact of a criminal record on a person looking for an apartment after being released from prison.

### 2.1 Do I have to tell my landlord that I'm in prison?

**No.** However, you must ask a person you trust to check on your apartment regularly and make sure there aren't any problems (for example, a water leak or a robbery). In addition to preventing financial problems, this is required by some insurance companies.

### 2.2 How can I redirect my mail to another address?

You can ask Canada Post to send your mail to the prison where you are being held, the halfway house where you are staying, or the home of someone you know. This service costs about \$50 for three months.

If you're staying in a halfway house, you can arrange for this online through Canada Post's website, or you can go to a Canada Post outlet.

If you're in prison, contact the Société Elizabeth Fry du Québec for help getting your mail redirected. (Refer to the Appendix, p. 30 to learn how to make a call.)

It is important to do have your mail redirected if you'll be in prison or a halfway house for a long time. For example, you might receive important mail from the government or from your landlord.

### 2.3 Can my landlord end my lease because I'm in prison?

**No.** The landlord can't end your lease if you continue to pay your rent. The landlord can't cancel the lease just because you're in prison. The landlord must have a valid legal reason for cancelling your lease (such as not paying your rent) and must obtain a decision from the Tribunal administratif du logement (formerly Régie du logement or rental board).

The same applies if you live in low-rent housing (often referred to as HLM in French). You can keep your apartment as long as you pay your rent.

## 2.4 What if I want to keep my apartment?

**You must pay your rent if you want to keep your apartment.** For info on making payments while in prison, refer to the Appendix, p. 32.

**You can try to negotiate with your landlord to get more time to pay,** but they don't have to agree. If your landlord gives you more time to pay, it's a good idea to get this agreement in writing.

**You can also try to sublet your apartment.** You can ask a person you trust to find someone to live in your apartment and pay the rent until you get out of prison. In this case, you must tell your landlord and get their permission. A landlord can only refuse for a good reason, for example, if the sublessee can't pay the rent.

## 2.5 If I don't pay my rent, when can my landlord cancel my lease?

**If your rent is three weeks late,** the landlord can ask the Tribunal administratif du logement (formerly Régie du logement or rental board) to cancel the lease. The lease will end only once the Tribunal makes its decision, and this could take several weeks.

You can keep your apartment if you pay everything you owe before the Tribunal makes its decision. You must also pay interest on any late rent.

**If you frequently pay your rent late,** the landlord can ask the Tribunal to cancel your lease for that reason.

## 2.6 Can the landlord put my things out on the street if I don't pay my rent?

**Yes, the landlord can get rid of your furniture on two conditions:**

Your lease was officially cancelled by a judgment of the Tribunal administratif du logement. (See previous question for information on this).

**After obtaining this judgment, the landlord can have a bailiff evict you and remove all your things.** You must first be given a notice of five days to leave and remove your furniture. If the landlord doesn't know where you are, the notice can be sent to your apartment. (See question 2.2 to learn how to redirect your mail.)

If the landlord meets these conditions, and you do not remove your furniture by the end of the five-day period, **the landlord can have a bailiff enter your apartment and remove your furniture.** The bailiff can sell them, give them to a charitable organization or simply get rid of them.

If the landlord does **not** send you a five-day notice, the landlord must keep your things for three months. The landlord must send you a notice giving you three months to pick up your things. As mentioned above, if the landlord doesn't know where you are, the notice can be sent to your apartment. (See question 2.2 to learn how to redirect your mail.)

In Quebec City, the Centre femmes aux 3 A can store personal belongings for a few months for women who are in prison. Call 1-888-529-2066 to find out whether this can be done in your case. To learn how to make this call from prison, refer to the Appendix, p. 30.

## 2.7 What if I don't want to keep my apartment while I'm in prison?

**You can try to reach an agreement with your landlord** to end the lease so you can stop paying rent. You can do this by phone, but it would be better if someone close to you asks the landlord to sign a document stating that the lease is ending early, on a specific date.

**You can also assign (transfer) your lease to someone else.** You can ask a person you trust to find someone who would be interested in renting your apartment. You must let your landlord know and get their permission. The landlord must have a good reason for refusing, for example, if the new tenant isn't able to pay the rent.

**If you ask someone to empty out everything from your apartment,** the lease will end as well. However, the landlord can claim rent from you until a new tenant is found.

**Low-rent housing (often referred to as HLM in French):** You can end your lease at any time by giving three months' written notice to your landlord. However, you're not allowed to sublet your apartment or transfer your lease.



A woman entering prison may not have had time to notify her employer that she can't go in to work. Fear of having to talk to her boss and losing her job could cause a lot of stress.

> See Chapter 5 to learn how a criminal record could affect your job search after you're released.

### 3.1 Do I have to tell my employer that I'm in prison ?

No, but your employer will realize very soon that you're not at work and might ask why.

**If you lie about it and your employer finds out, there could be consequences** (for example, you could be suspended or fired).

There could also be consequences if you don't explain an extended absence from work.

**If you're in prison for a relatively short time**, you can ask for time off (vacation or unpaid leave) while you're serving your sentence. Your employer can accept or refuse depending on your contract or collective agreement.

To learn how to make this call from prison, refer to the Appendix, p. 30.

### 3.2 Can my employer fire me because I'm in prison?

**Yes, your employer can fire you if you're not available to work.** For example, if your prison sentence is six months, your employer is allowed to fire you and find a replacement.

**However, an employer can't fire you if you're still available to work.** For example, your employer can't fire you if you have an intermittent sentence (such as weekends only) and you can still work. Also, your employer can't fire you if you are entitled to vacation time or unpaid leave.

In some cases, your employer can fire you if you were found guilty of a crime connected to your job. To learn more, read Chapter 5 on the impact of a criminal record.

**If you believe that your employer is unfairly discriminating against you because of your legal problems, you can file a complaint with the following organizations:**

- Commission des droits de la personne et des droits de la jeunesse (Quebec human rights and youth rights commission) at 1-800-361-6477. (To learn how to make this call from prison, refer to the Appendix, p. 30.)
- Commission des normes, de l'équité, de la santé et de la sécurité du travail (CNESST or Quebec labour standards and workplace health and safety board) at 1-800-265-1414, if you've had the same employer for more than two years and you've been fired. (To learn how to make this call from prison, refer to the Appendix, p. 30.)



Being separated from their children is a huge concern for women in prison. Even if they in prison or a halfway house, it's important for mothers to be aware that they maintain rights regarding their children and continue to have a role in their children's lives.

## My relationship with my children

### 4.1 Where are my children while I'm in prison?

This depends on your situation.

- **If the children's father or the other parent is present**, your children would normally be with that person (for example, if you were a couple and you were taking care of your children together, or if you were separated and the other parent had shared custody).
- **If the DYP (Director of Youth Protection) took your children into care** before you went to prison, they should still be in the same place.
- **If you took care of your children alone**,
  - > you may have asked someone you trust to take care of them,
  - or
  - > the DYP became involved and your children were placed in care (see "When the DYP is involved" on p. 22).

You have the right to know where your children are and who's going to take care of them. You can call them directly, call someone close to you or call a DYP worker to get answers (refer to the Appendix, p. 30 to learn how to make a call).

### 4.2 Do I have anything to say about what happens with my children?

**Yes.** Even while you're in prison, the person taking care of your children must consult you about all important decisions that concern them. This applies no matter who is taking care of your children, whether it's their father, a close relative or a foster family.

You have a say in these types of things:

- where they go to school
- health care
- certain medical treatments like orthodontic work
- trips

If you don't agree with the decisions that were made, talk to your lawyer to find out what steps you can take (refer to the Appendix, p.31).

If the DYP is involved in your children's case, the judge or the DYP worker must consult you before making a decision affecting your children. For example, you're allowed to give your opinion, before a decision is made, about where your children will be placed during your absence. Your opinion must be taken into account, but the decision might not be what you asked for.



**Important!**

In some cases, parents can give permission for their children to be adopted. If your children are adopted, you won't have any more rights concerning them. The new parents will make all the decisions involving your children.

### 4.3 Can I see my children?

You must check with the person who is taking care of them.

- **If the DYP is involved in your file:** You must notify the DYP that you're in prison and check whether you're allowed to see your children.
- **If your children's father is taking care of them while you're in prison:** You must try to reach an agreement with him to schedule visits. If you were separated and a judgment provided for visiting rights, you must consult a lawyer to make adjustments to the visiting rights.

If the person taking care of your children is refusing to let you see them, you can consult a lawyer to find out what to do in this case (refer to the Appendix, p. 31).

Depending on your situation, you have several options for seeing your children:

- **Regular visits:** You must enter your children's names and the name of the person accompanying them on the visitors' list. The person accompanying them must check visiting hours before coming to visit (refer to the Appendix, p. 31).
- **24 hours with your children in a small apartment (called a "trailer") at Leclerc Institution:** You must write a memo to Continuité-famille auprès des détenues (CFAD or family continuity for inmates) and let them know you want to see your children. They will consider your request and arrange for the visit, if possible in your situation. (Refer to the Appendix, p. 32 to learn how to write a memo.)
- **Mother/child program at Joliette Institution:** This program allows you to see your children regularly (for example, a weekly visit, a 72-hour visit or living with your children in certain situations). You must complete a request to learn more about the mother/child program.

## When the DYP is involved

The Director of Youth Protection (DYP) may have been involved in a child's life even before the mother was taken into custody. In other situations, the DYP intervenes only once the woman has been sentenced to prison.

**The DYP isn't automatically involved when a woman goes to prison.** The DYP intervenes when there's reason to believe the child's safety and development are at risk. For example, if the children's father is taking care of them, or if the mother asked someone she knows well to take care of them, the DYP won't necessarily intervene.

### 4.4 I don't understand what's going on in my file. What can I do?

**You can ask DYP workers for explanations.** They must explain your rights and the protective measures they want to put into place concerning your children.

Don't hesitate to ask questions if you don't understand everything the DYP worker is telling you. The worker must give you information in a manner you can understand.

You can also contact the following people to ask questions:

- **Your lawyer.** The services of your lawyer are free if you qualify for legal aid (refer to the Appendix, p. 31).
- **Workers from the Société Elizabeth Fry du Québec.** (Refer to the Appendix, p. 30 to learn how to make a call.)
- **Users' committee.** This committee is made up mostly of volunteer parents who've dealt with the DYP in the past. They might have advice about your rights and are allowed to accompany you (refer to the Appendix, p. 33).

### 4.5 Do I have to do what the DYP asks?

The DYP gets involved when there's reason to believe the child's safety and development are at risk. When possible, the DYP can suggest to the parents that they voluntarily respect certain measures to correct the situation. The agreement proposed by the DYP is called an "agreement on voluntary measures."

**You don't have to accept an agreement suggested by a DYP worker.** However, if you refuse to sign it, your file will be sent before a judge who'll decide on the best solution for your children.

If you signed an agreement with the DYP, you should respect it. If you feel this agreement no longer works, in your situation, you can try talking to the DYP worker about a new arrangement. However, if the DYP worker doesn't want to change the agreement and you don't do what the agreement says, your file will end up in court and a judge will decide on a solution. You can consult a lawyer in this case (refer to the Appendix, p. 31).

**If your file has already gone to court, you must do what the judge ordered.** If you don't follow the judge's orders, this could hurt your case. If your situation has changed, your lawyer can ask the judge to modify the agreement.

#### 4.6 Can someone accompany me when I speak to a DYP worker?

**Yes, someone can accompany you.** For example, a correctional officer or a worker from the halfway house can accompany you when you meet with or speak to a DYP worker.

This person can help you better understand what the DYP worker is asking or recommending. It's especially useful to have someone accompany you if you have a difficult relationship with the DYP worker.

#### 4.7 I believe that the DYP worker is not doing their work properly or isn't respecting my rights. What can I do?

**You could try to discuss things calmly with the worker** and explain your concerns and why you're not satisfied. You could suggest alternatives to what the worker is recommending. The DYP worker must treat you with courtesy and respect.

**It's very important to stay calm when you speak to the DYP worker.** It's normal to disagree sometimes, and it's important for you to express your position. However, if you're aggressive, this might do you more harm than good.

**Ask for help from a correctional officer or a worker from the Société Elizabeth Fry du Québec** if you want someone to accompany you when you meet with the DYP worker.

You can also ask for advice from the users' committee of the youth services in your region. In addition, volunteer parents on the committee can provide information about your rights and accompany you during the process.

**You can also file a complaint:**

- You can file a complaint with the **local complaints commissioner** of your region if you're not satisfied with the services.
- You can file a complaint with **the Commission des droits de la personne et de la jeunesse** (Quebec's human rights and youth rights commission) if you believe your children's rights haven't been respected (refer to the Appendix, p. 34), for example, you weren't consulted before your children were taken into care, or you weren't allowed to have someone accompany you during your meetings with the DYP.

#### 4.8 Do I have to continue paying my DYP contribution if my children are taken into care while I'm in prison or a halfway house?

**It depends. You should check with the DYP.** Call the number on your DYP invoices to let them know you're in prison (refer to the Appendix, p. 30 to learn how to make a call.) There are different options depending on your situation:

- Continue to make your DYP contributions. In this case, you'll continue to receive family allowance payments from the provincial government (see next question).
- Stop your payments while you're in prison.
- Lower the amount of your payments.

#### **4.9 Will I continue to receive my family allowance payments if my children are taken into care?**

- **Federal payments**

**You will no longer receive federal family allowance payments** if your children are placed in a rehabilitation centre, with a foster family or with a family member.

You must notify the government as soon as possible that your children have been taken into care so they will stop making payments (1-800-387-1194).

If you don't advise them, you'll have to pay back the government for any overpayments you received while in prison. The extra amount you received will become a debt (see Debts, p. 11).

- **Provincial payments**

You'll continue to receive your provincial payments if you continue to pay your contribution to the DYP. However, if you stop making your payments to the DYP, you'll stop receiving your provincial payments.

### **Rights of grandmothers in prison**

#### **4.10 I want to see my grandchildren, but their parents are refusing. What can I do?**

It will probably be difficult to see your grandchildren if their parents refuse.

Although the law says that parents can't interfere in the relationship between children and their grandparents, the parents can refuse to let you see your grandchildren for a serious reason.

In practice, you must ask the court for permission to see your grandchildren if you want to contest the parents' decision. The judge will decide if there are serious reasons to prevent you from seeing your grandchildren. The decision will be based on the children's best interests, not what you may want or what the parents may want. These court proceedings might take some time.

If you want to stay in touch with your grandchildren, you could ask the parents about speaking with the children by phone.



A criminal record and time spent in prison can have major impact on a someone's life. It's important to fully understand the issues surrounding a criminal record to avoid unpleasant surprises and have all the information you need to defend your rights.

## Impacts on housing

### 5.1 Can a landlord refuse to rent an apartment to me because I have a criminal record?

**Yes.** A landlord can refuse to rent to you if you have a criminal record.

Landlords are allowed to check whether you have a criminal record, but not all landlords do this.

## Impacts on work

### 5.2 Can an employer ask me whether I have a criminal record?

**Yes.** Before hiring you, an employer is allowed to ask whether you have a criminal record.

### 5.3 Do I have to tell my employer that I have a criminal record?

**The law doesn't say you must, but it's a good idea to tell your employer about your criminal record if you're asked.** Then you can explain the type of offence and the circumstances of the crime.

You don't have to tell your employer that you have a criminal record if they don't ask. But if you lie, your employer might learn about it some other way (see the next section) and refuse to hire you. Your employer could even fire you for being dishonest.

### 5.4 Can an employer check whether I have a criminal record?

**Yes.** An employer can check the court records (called the "plumitif" in Quebec) without asking for your permission.

An employer is also allowed to ask you for a certificate of good conduct or a police certificate. This document indicates whether or not you have a criminal record.

In workplaces that provide services to vulnerable groups like children or the elderly, the employer is allowed to go beyond a criminal record check and inquire about events that didn't lead to charges (for example, if someone filed a police complaint against you but you weren't charged with a crime).

## 5.5 Can an employer fire me or refuse to hire me if I have a criminal record?

Your criminal record could have an impact on your job search in some situations. For example, you might not be able to work some jobs.

But, as a general rule, **an employer can't fire you, refuse to hire you or put you at a disadvantage** because of your criminal record in these cases:

- The criminal record **has nothing to do with the job.**
- or,
- Your criminal record was suspended (you received a **pardon**) (see question 5.10).



**Important!** The rules are stricter if you want to work with vulnerable people or with children. You can find out more from the Centre de main-d'œuvre OPEX (employment centre). There's an OPEX worker in each of Quebec's provincial prisons.

## 5.6 What can I do if I believe an employer is discriminating against me because of my criminal record?

**You can file a complaint** with the Commission des droits de la personne et des droits de la jeunesse (Quebec's human rights and youth rights commission -- refer to the Appendix, p. 34). The Commission's role is to ensure that everyone's rights are respected. It will investigate your complaint.

## Impacts on travels

### 5.7 Can my criminal record prevent me from travelling?

**Yes, in certain countries.**

Each country decides on its own rules allowing foreigners to enter their territory. Some countries won't let in persons who have a criminal record. When you're released from prison, you can check the Canadian government's online travel advisories to learn about the rules of the country you want to visit.

### 5.8 Can I enter the United States?

**If you want to travel to or make a stopover in the United States**, you should consult a lawyer because the United States has very strict rules.

In certain cases, it's possible to obtain special permission to enter the United States even if you have a criminal record. This is called a "waiver." The waiver is only valid for the United States. The cost is \$700 or more.

**Contact the organization Alter Justice (free of charge) at 418-522-4343** for assistance if you plan to enter the United States. They accept collect calls (reverse-charge calls) from prisons (refer to the Appendix, p. 30 to learn how to make a call).

## Impacts on insurance

### 5.9 Can an insurance company refuse to insure me because of my criminal record?

**Yes.** In certain cases, an insurance company can refuse to insure you or can charge you more.

Whether you already have insurance, or are looking for new insurance, it's best to tell the insurance company about your criminal record. If you don't, the company might cancel your insurance or refuse to pay you if you make a claim.

The consumer information centre of the Insurance Bureau of Canada (1-877-288-4321) can help if several insurance companies are refusing to insure you once you're out of prison (refer to the Appendix, p. 30 to learn how to make a call).

The Association des services de réhabilitation sociale du Québec (association for social reintegration services) can recommend insurance brokers who insure people with criminal records. You can reach them at 514-521-3733 (refer to the Appendix, p. 30 to learn how to make a call).

## Erasing your record

### 5.10 Is my criminal record erased after a certain amount of time?

**No,** your criminal record can't be fully erased.

**However, you can ask for a suspension of your criminal record** (a pardon). If you receive a pardon, your criminal record will be kept confidential by the RCMP.

**You have to wait 5 or 10 years** to ask for your criminal record to be suspended. The cost is \$50. Not everyone can receive a pardon.

However, if you were convicted for the simple possession of cannabis, you can ask for a pardon without waiting for these time limits to expire. The application is free in this case and can be done through the Government of Canada website. “

If your criminal record is suspended, it might be easier for you to find a job. However, it won't necessarily allow you to travel to other countries.

#### **For help with asking for a suspension of your criminal record:**

- Contact the organization Alter Justice (free of charge) at 418-522-4343. They accept collect calls (reverse-charge calls) from prisons. Refer to the Appendix, p. 30 to learn how to make a call.
- Call a lawyer (refer to the Appendix, p. 30 to learn how to make a call).

### 5.11 If I'm not convicted after being held in preventive detention, what can I do to remove any information about my problems with the law?

If you weren't convicted after being held in preventive detention, information about you or the charges against you might still be available in these cases:

- You were granted a discharge.
- You were acquitted (found not guilty).
- The charges were withdrawn or the proceedings were stopped.

In these situations, you must take steps to remove the record at the courthouse and the police station.

#### For help with the process:

- Contact the organization Alter Justice (free of charge) at 418-522-4343. They accept collect calls (reverse-charge calls) from prisons. Refer to the Appendix, p. 30 to learn how to make a call.
- Call a lawyer (refer to the Appendix, p. 30 to learn how to make a call).



**Important!** Court decisions are often available online. Therefore, information about your legal problems might still be available, even if you were acquitted.



When leaving prison, it's normal to hope that all of your legal problems are behind you. However, it's important to be aware of what might happen next.

### 6.1 When I leave prison, can the police arrest me again?

Once you've been released from prison, the police can't arrest you again for the same crime.

However, they can arrest you again for other reasons:

- **If you don't respect the conditions of your probation or parole.** Don't hesitate to call a lawyer or speak to your probation officer if you don't fully understand the conditions you must follow.
- **If there's a warrant for your arrest in a different case** (for example, for another crime, or for unpaid tickets in certain regions of Quebec). To find out whether there's an arrest warrant against you, you can ask your lawyer to find out, or you can contact the workers at the Société Elizabeth Fry du Québec free of charge (refer to the Appendix, p. 34).
- **If you commit a new crime.**

### 6.2 When I leave prison, can anyone claim money from me for the crime I committed?

In certain cases, you might have to pay money in connection with the crime you committed.

The victim of the crime could file a claim against you in a civil court and ask for money to cover certain costs. For example, a victim is allowed to claim money from you to compensate them for their suffering after an assault.

In most situations, the victim has a limited amount of time to sue you. The time limits depend on the situation. You can contact a lawyer to learn more (refer to the Appendix, p. 31).

The government can also ask you to pay income tax in the following cases:

- **If you were accused of a crime and you earned money from that crime** (for example, selling drugs), the government can ask you to pay any taxes you should have paid while you profited from this activity.
- **If you were accused of tax fraud**, the government can ask you to pay back any unpaid taxes from previous years.

## Appendix

This Appendix is based on the practices in provincial prisons in Quebec. Federal prisons might have different rules.

Since internal practices can change at any time, it's important to talk to correctional officers to confirm this information.

### Section 1 : Telephone calls

#### > Ask a correctional officer to make a call using their phone

You can make some calls for free using a correctional officer's phone. You must write a memo to your officer or ask them directly. If you haven't been assigned to an officer, talk to another correctional officer in your sector.

The officer will decide whether you can make the call. Officers generally let you make free calls to the following places:

- Director of Youth Protection (DYP)
- Service companies (Hydro-Québec, Videotron, Bell, etc.)
- Bureau des infractions et amendes, also called the "percepteur des amendes" (fine collector)

When you first enter prison, correctional officers sometimes allow you to call your family to let them know you're there and to find out where your children are.

#### > Calling card

You can put money on your calling card to make calls.

#### > Toll-free calls

You can make a toll-free call to certain organizations, such as the Québec Ombudsman and Stella (organization providing support to sex workers).

#### > Collect calls (reverse-charge calls)

This can be useful with your family.

Other organizations also accept collect calls, such as the Société Elizabeth Fry du Québec and Alter Justice.

However, you can't make a collect call with organizations that have an automated answering system.

## Section 2 : Visits

You're allowed visits from certain people:

- your spouse
- your children
- your mother and father
- your brothers and sisters
- your lawyer

When you get to the prison, you must write their names on your visitors' list.

In order for someone else to visit you (for example, a friend, the father of your children, a social worker, etc.), you must ask for permission from the prison director by writing a memo (see Section 5).

People who want to visit you must check whether the visiting hours have changed. They can call the detention centre.

## Section 3 : Lawyers

### > Free information provided by the lawyer from the Société Elizabeth Fry du Québec

**You can meet with a lawyer free of charge** to obtain information. She can't be YOUR lawyer or represent you in court, but she can answer your questions and assist you with what needs to be done. She can also help you find a lawyer. You can write a memo asking her to contact you (see Section 5).

### > Finding a lawyer

**You can check whether you qualify for legal aid** to obtain the services of a lawyer free of charge, or at a low cost. To find out if you qualify, contact the legal aid office associated with the prison (see Section 6 for a list of resources).

**If you qualify for legal aid**, the legal aid office will put you in touch with one of its lawyers.

**You can also call the referral service of the Barreau du Québec** (Quebec bar association) to find a lawyer (see Section 6 for a list of resources). You must indicate which field of law you need help with (for example, family law, criminal law, prison law) and let them know whether you qualify for legal aid.

### > Getting a new lawyer or filing a complaint

**You're allowed to get a new lawyer**, for example, if you no longer trust the one you have or if communication has become too difficult.

**Before getting a new lawyer, you should do the following:**

- Talk things over with your current lawyer to try to settle the problem.
- Check whether there's another lawyer in your region who can take on your case.

**Getting a new lawyer could cause delays in your case**, especially if your trial is coming up soon. Your new lawyer will have to read all the documents in the file, and this could lead to additional costs.

**You can also call the Barreau du Québec (1-844-954-3411)** to ask questions or to complain if you have concerns about your lawyer's actions (see Section 1).

## Section 4 : Paying bills

You must continue to pay your bills when you're in prison, including rent, electricity, telephone or credit card bills, as well as your DYP contributions (see Chapter 1).

There are a few ways to pay your bills:

- > **If you have money in an outside account, you can ask someone close to you to bring you a few cheques. :**
  - Make a note of your bank account information and ask the service company to automatically withdraw the amount owing every month.
  - or
  - Write a cheque and ask that person to mail it for you.
- > **If you earn money while in prison**, you can write a memo to your correctional officer and ask to use your money to pay your bills..
- > **You can also ask someone to pay your bills for you.**

## Section 5 : Memos

**Writing a memo is often the best way to ask for something** when you're in prison, though some officers prefer that you speak to them directly to ask for something.

**It's very important to address the memo to the right person.** Write the name of the person or organization at the top. Here are some examples:

- If you have a legal question, you can write a memo to "The lawyer from the Société Elizabeth Fry du Québec."
- To arrange for a visit with your children, you can write a memo to "Continuité-famille auprès des détenues (CFAD)."
- To make a call, you can write a memo to your correctional officer or to another officer in your sector.
- If you have a job-related question, you can write a memo to OPEX (see Section 6 for a list of resources).

If you don't know who to write the memo to, ask a correctional officer in your sector.

**Before you write the memo, think carefully about what you need, and write your memo clearly.** For example, if you want to meet with the lawyer from the Société Elizabeth Fry du Québec, carefully consider which questions you want to ask her. Then, in your memo, write down the main points of your problem and the questions you want to ask. The clearer your memo, the more prepared the lawyer will be to answer your questions.

## Section 6 : Resources

### > For more information about the law and your rights

#### **Société Elizabeth Fry du Québec**

You can call the Société Elizabeth Fry du Québec at 514-489-3887 and reverse the charges.

If you need legal information, you can write a memo to the Société Elizabeth Fry du Québec, and the lawyer will meet you at the prison. You can also leave a message by calling 514-489-2116, ext. 235.

#### **Alter Justice**

If you want information about the prison system, your rights in prison or your criminal record, you can call Alter Justice at 418-522-4343 and reverse the charges.

#### **Tribunal administratif du logement (formerly Régie du logement or rental board)**

For questions concerning housing, you can call the Tribunal at 1-800-683-2245.

#### **OPEX**

OPEX is a service that helps offenders find a job or go back to school. You can reach them at 1-833-888-OPEX.

#### **Youth services users' committees**

Every youth centre has a users' committee that can provide information about the youth protection system or help you out with any steps you need to take.

To reach the committee in your region, call your youth centre and ask for the users' committee. You can also call the Regroupement provincial des comités des usagers (Quebec association of users' committees) at 514-436-3744.

#### **Éducaloi**

Éducaloi's website (<http://www.educaloi.qc.ca/en/>) provides legal information about a wide variety of topics, including housing, divorce, health and work. The articles are written in language that is clear and easy to understand. This resource can be useful in a halfway house or when you're released from prison.

> **Filing a complaint**

**The Quebec Ombudsman**

If you believe your rights are not being respected in prison, you can call the Quebec Ombudsman:

- Toll-free: 1-800-463-5070
- Call collect (reverse the charges): 418-643-2688

**Commission des droits de la personne et des droits de la jeunesse du Québec (human rights commission)**

If you believe you have suffered discrimination in prison or that your rights weren't respected by the DYP, you can call the Commission to lodge a complaint at 1-800-361-6477.

> **Finding a lawyer**

To find out if you qualify for legal aid, call the legal aid office nearest you:

- Montreal and Laval: 514-864-2111
- Gatineau: 819-669-2382
- Joliette: 450-759-2500

If you don't have the number for your region, you can call 1-800-842-2213 to ask for it.

You can also call the referral service of the Barreau du Québec (Quebec bar association) to find a lawyer in your region who is specialized in the field of law you need help with.

- Montreal: 514-866-2490
- Longueuil and surrounding areas: 450-468-2609
- Quebec City, the Beauce and Montmagny: 418-529-0301
- Other regions in Quebec: 1-866-954-3528









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