

Becoming a tutor for someone close to you

How to prepare

Awareness | Support | Action





Being a tutor: an important role

Someone close to you has become incapable or has a condition that prevents them from exercising their rights. Their incapacity is currently being, or will soon be, assessed, and a judge may declare them legally incapable. If that happens, they will no longer be able to make certain decisions on their own, and another person—their tutor—will need to act on their behalf.

If you become their tutor, you will play an important role in looking after their well-being and managing their property. You will have to stand in for them and represent them legally in exercising their rights. You will have responsibilities and will need to submit a rendering of accounts of your administration to others and to the Curateur public.

This role may seem daunting. But if you are already involved in your person's life, want to support them, or are their caregiver, becoming their tutor will make things easier, since you will be officially authorized to act on their behalf. Because you know your person well—their likes and preferences—you are best placed to protect their moral well-being and financial interests. And you won't be alone: There are many tools and resources available to help you.



Why institute a tutorship?

A tutorship may be necessary to protect a person and manage their property when medical and psychosocial assessments confirm their incapacity and need for representation. The tutorship takes effect following a judgment by the court.

However, if the person has a protection mandate, the priority will be to homologate it, if the court decides this is in their best interest (see [Québec.ca/mandate](https://quebec.ca/mandate)).

Other options can also be considered if the person is well taken care of and their situation does not require a protective supervision regime. In fact, there are easy ways to help them (see [Québec.ca/ways-help-someone-close](https://quebec.ca/ways-help-someone-close)).

The tutor's responsibilities

The tutorship will be adapted to the person's needs and level of independence. As their legal representative, the tutor will be responsible for acting on their behalf in matters specified by the court. The law stipulates which acts a represented person may or may not perform on their own. The court may modify or specify these acts based on the person's capacities.

Only one person may be appointed as tutor to the person, and one or two people as tutors to the property. However, the same person often takes on both roles.

When a child who reaches full age is declared incapable, both parents may be jointly appointed as tutors in order to manage their property and look after their well-being.

At all times

The **tutor to the person** oversees the person's well-being and the exercise of their rights. Among other things, they must:

- Ensure the person's needs are met and their living environment is adequate;
- Encourage them to perform any acts they can do alone and participate in decisions to the extent of their abilities;
- Consent to or refuse care on their behalf, if they are incapable of doing so;
- Limit or prevent contact with people who represent a risk to their physical or mental well-being;
- File a complaint or contest a decision that infringes on their rights;
- Represent them in court in cases that concern them directly;
- Have them reassessed within the time limits set out in the court judgment.

The tutor to the person is responsible for the represented person's well-being, while the tutor to the property manages their patrimony.



The **tutor to the property** manages the person's patrimony and exercises their rights related to their assets. They must:

- Create a budget for the person, manage their investments, and pay their expenses using their patrimony;
- Keep meticulous records of all expenses and save all supporting documents (e.g., invoices, receipts, bank and investment statements);
- Collect their income and apply for benefits and payments to which they are entitled;
- Make sure all purchases and financial decisions are in their best interest;
- Keep the person's patrimony separate from their own personal assets;
- Encourage them to perform any acts they can do alone and participate in decisions to the extent of their abilities;
- File a complaint or contest a decision that infringes on their rights;
- Represent them in court cases that concern their property.

When the tutorship is instituted

The tutor to the property must prepare an **inventory of the person's property**.

The inventory lists all the person's assets and debts (e.g., investments, account balances, credit card balances, vehicles, real estate). It can be prepared by a notary or by the tutor, in the presence of two witnesses. The inventory provides an accurate idea of the nature and value of the assets to be managed. It must be completed within 60 days following the institution of the tutorship.

The tutor to the property must provide **a security**.

A security is a financial guarantee meant to protect the value of the person's patrimony and ensure proper management by the tutor. Depending on the type of security, it can be obtained from a financial institution, a notary, or an insurance company. It is mandatory if the patrimony exceeds \$40,000.

Once a year

The tutor to the property must **produce the annual management report**.

The annual management report is a document that lists all expenses made by the tutor on behalf of the person during the year. It also lists the value of their property, their debts, and their annual income. This report lets the tutor show that they are managing the person's property responsibly and adequately protecting their patrimony.

The tutor to the property must **file the person's income tax return**.

The income tax return must be filed annually, on the person's behalf, before the deadlines set by the provincial and federal governments. As needed, the tutor to the property may hire a professional to provide this service.

When the tutorship is lifted

The tutor to the property must **produce the final administration report**.

The final administration report covers the tutor to the property's management of the person's patrimony, from the final annual management report until the end of their duties. It must be completed when the tutor is replaced or when the tutorship is lifted because the person has regained their capacities or died.

Other people involved in the tutorship

As the tutor, you will not be alone. You will have the support of other people close to the person you represent, who will form the tutorship council, and you can also rely on the Curateur public. Each party plays a specific role, with different responsibilities and obligations. You can consult them at any time.

The tutorship council

The tutorship council is usually made up of three people. Its role is to help the tutor fulfil their responsibilities and to ensure the tutor acts in the person's best interest and manages their patrimony properly. Among other things, the tutorship council must:

- Verify several documents produced by the tutor (e.g., inventory, annual management report);
- Authorize certain important actions the tutor may need to take (e.g., selling a valuable item, refusing an inheritance);
- Organize a meeting with the tutor annually, or when important decisions need to be made, to review the person's situation and needs;
- Report any misconduct, maltreatment, or exploitation by the tutor to the Curateur public;
- Ask that the tutor be replaced if they die, fail to fulfill their obligations, or are no longer able to perform their duties.

The Curateur public

The tutorship is considered "private" when someone close to the person acts as the tutor. The Curateur public supports the tutor and the members of the tutorship council throughout the tutorship. A designated employee oversees the file, reviews the documents provided by the tutor, and ensures the person and their patrimony are protected. They are available to explain the required steps and to help solve problems.

In some cases, the Curateur public may be appointed as the tutorship council or, if necessary, share the role of tutor with someone close to the person. In the case of abuse or neglect of the person or their patrimony, the Curateur public receives the report, conducts an investigation, and takes steps to address the situation.

The Curateur public may also be appointed tutor to the person if there is no family, if the person is isolated, or if the people close to them refuse to or cannot take on the role. In that case, the tutorship is considered "public."

Procedure for the institution of a tutorship

1	Requesting medical and psychosocial assessments*	<p>The person who begins the process of instituting the tutorship, called the applicant, submits an affidavit to the health institution. This first step demonstrates the need to have the person in question assessed and authorizes the applicant to receive the reports.</p> <p>The applicant can be different from the person who will later be named tutor. They may also hire a lawyer or a notary to help them complete this process.</p>
2	Obtaining medical and psychosocial assessments	<p>A doctor and a social worker confirm the person's incapacity and their need to be represented by a tutor.</p> <p>The tutor may be recommended by the social worker.</p>
3	Drawing up the application to institute a tutorship	<p>A person wishing to become a tutor must obtain from a police force a certificate of no judicial record or, where applicable, a judicial record list. They must also sign a sworn statement attesting to the information.</p> <p>The applicant, or their lawyer or notary, then prepares the necessary documents to submit the application to the court.</p>
4	Filing the application with the court	<p>The applicant, or their lawyer or notary, files the application, including the medical and psychosocial assessments, the result of the judicial record check, and the sworn statement.</p> <p>A copy is sent to the person concerned, to the people close to them, and to the Curateur public.</p>
5	Interviewing the person concerned	<p>The lawyer, the notary, or the court interviews the person concerned by the application to institute a tutorship, to hear their opinion on the process and the proposed choice of tutor.</p>
6	Participating in a meeting of relatives, persons connected by marriage or a civil union, or friends	<p>The notary or the special clerk calls a meeting of family members and people close to the person concerned by the application, to hear their opinion on the process.</p> <p>They review the file and give their views on instituting a tutorship and on the appointment of tutors and substitute tutors.</p> <p>They also suggest the people who will form the tutorship council.</p>
7	Receiving the court judgment	<p>In its judgment, the court decides whether tutorship is necessary.</p> <p>If a tutorship is instituted, the court specifies its nature (to the person, to the property, or both) and adapts it to the person's capacities (modulation). It appoints the tutor, the substitute tutor, and the members of the tutorship council.</p> <p>The applicant, the person concerned, and the Curateur public are informed of the judgment.</p>

* The application for the institution of a tutorship can be filed by the person concerned, their spouse, someone close to them, a family member, a friend, or someone with a special interest in them. It can also be filed by a health institution or the Curateur public.

Judicial record

A person wishing to be appointed as a tutor or substitute tutor must obtain from a police force and submit to the court a certificate of no judicial record or, where applicable, a judicial record list. They must also provide a sworn statement confirming that they have never had a civil judgment rendered against them or, where applicable, listing judgments against them. The statement must also indicate whether they have ever declared bankruptcy. A lawyer or a notary can assist with these steps.

The court will take these documents into account when appointing the tutor. If the judicial record is deemed incompatible with the role of tutor or poses a serious risk of harm to the person, the court may challenge the appointment.

Documents to be filed with the court:

- Medical and psychosocial assessments
- Certificate of no judicial record
- Judicial record list (if applicable)
- Sworn statement about the judicial record

Having a judicial record does not automatically mean the person will not be appointed.



Costs

The institution of a tutorship entails costs, such as court and bailiff fees, lawyer's or notary's fees, and the cost of the judicial record check. Depending on the situation, they may be covered by legal aid or reimbursed from the person's patrimony once the judgment is rendered.

After the tutorship is instituted, any costs related to caring for the person or their property will be charged to their patrimony (e.g., bank fees, accountant's fees). However, the tutor is not paid for their work unless the court specifically authorizes it in the judgment.

While waiting for institution of the tutorship

Institution of a tutorship can take several months. If an emergency happens in the meantime, there are ways to protect the person. These measures can prevent serious problems or damage that could adversely affect their property, health or life. For more information, consult the [Québec.ca/ways-help-someone-close](https://quebec.ca/ways-help-someone-close) or contact the Curateur public.

If someone close to you becomes incapable of taking care of themselves or their property, becoming their tutor will allow you to support them and ensure decisions are made in their best interest. If you choose to take on this responsibility, there will be tasks to complete and rules to follow, but there is also a whole system in place to support and guide you.



References

The Curateur public has many guides and forms to help the tutor and the tutorship council. If you have questions about the tutorship, the Curateur public is always happy to answer them.

Online

- Tutorship to a person of full age: [Québec.ca/tutorship-for-adults](https://quebec.ca/tutorship-for-adults)
- Ways to help someone close to you depending on their situation: [Québec.ca/ways-help-someone-close](https://quebec.ca/ways-help-someone-close)
- Requesting the institution of a tutorship for a person of full age: [Québec.ca/tutorship-institution-request](https://quebec.ca/tutorship-institution-request)

Publications (see [Québec.ca/curateur-public/brochures/en](https://quebec.ca/curateur-public/brochures/en))

- [Protecting and supporting your loved ones](#)
- [Establishing a tutorship security](#)
- [Protecting a person under tutorship – Guide for the tutor and the tutorship council](#)

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