



NATIONAL ASSEMBLY OF QUÉBEC

FIRST SESSION

FORTY-THIRD LEGISLATURE

Bill 47
(2024, chapter 9)

**An Act to reinforce the protection
of students, including with regard
to acts of sexual violence**

**Introduced 6 December 2023
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Assented to 9 April 2024**

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EXPLANATORY NOTES

This Act amends the Education Act and the Private Education Act to introduce various provisions to reinforce the protection of students, including with regard to acts of sexual violence.

For that purpose, school service centres and private educational institutions are required to adopt a code of ethics applicable to members of their personnel and to other persons required to work with their minor or handicapped students or be regularly in contact with them, and those centres and institutions must report to the Minister on the reports brought to their attention concerning any failure to comply with that code in relation to behaviours that could reasonably pose a threat for the physical or psychological safety of the students.

The Act establishes the duty for school service centres and private educational institutions to ensure that persons who work with or would be required to work with minor or handicapped students or be regularly in contact with them have not exhibited behaviour that could reasonably pose a threat for the physical or psychological safety of students in the exercise of their functions in such a centre, such an institution or another educational body in Québec. Those centres and institutions are also required, when they conclude that such behaviour has been exhibited by a person, to inform the other school service centres, private educational institutions and educational bodies in Québec in which the person who has exhibited such behaviour holds a position.

The Act allows those centres and institutions to take into account a disciplinary measure previously imposed on an employee because of a behaviour that could reasonably pose a threat for the physical or psychological safety of students when they impose a disciplinary measure on the same employee because of such a behaviour, despite any provision relating to working conditions.

The scope of the provisions relating to a serious fault or a derogatory act by a person holding a teaching licence is broadened to cover certain persons assigned to teaching duties by a school service centre who do not hold a teaching licence, and every employee of a school service centre or private educational institution must report without delay to the Minister of Education any situation involving a teacher and behaviour that could reasonably pose a threat

for the physical or psychological safety of students. The Minister is required to submit to the inquiry committee any situation concerning a teacher that has been brought to the Minister's attention if he or she is of the opinion that the information in his or her possession could demonstrate a serious fault committed in the exercise of the teacher's functions or an act derogatory to the honour or dignity of the teaching profession. Furthermore, the inquiry committee is to be composed of members appointed for a term not exceeding five years.

Persons who make a report or file a complaint, cooperate in the processing of a report or complaint or accompany a person who makes a report or files a complaint are granted protection against reprisals.

The Act also establishes a register of teaching licences, which the Minister must keep up to date and make accessible to school service centres, private educational institutions and other educational bodies in Québec, and to the authorities of the other provinces and the territories of Canada that are responsible for issuing teaching licences.

Lastly, the Act creates penal offences, makes consequential amendments and contains transitional and final provisions.

LEGISLATION AMENDED BY THIS ACT:

- Act respecting private education (chapter E-9.1);
- Education Act (chapter I-13.3).

Bill 47

AN ACT TO REINFORCE THE PROTECTION OF STUDENTS, INCLUDING WITH REGARD TO ACTS OF SEXUAL VIOLENCE

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

EDUCATION ACT

1. The Education Act (chapter I-13.3) is amended by inserting the following section after section 23:

“24. The Minister shall keep up to date a register of teaching licences and make it accessible to school service centres, to institutions governed by the Act respecting private education (chapter E-9.1) and educational bodies in Québec that provide all or part of the educational services referred to in this Act, and to the authorities of the other provinces and the territories of Canada that are responsible for issuing teaching licences.”

2. The heading of subdivision 3 of Division III of Chapter II of the Act is amended by adding “*or by a person assigned to teaching duties by a school service centre pursuant to section 25*” at the end.

3. Section 26 of the Act is amended

(1) by replacing “in writing, include reasons and be made under oath” in the third paragraph by “in writing and include reasons”;

(2) by replacing “a copy of” in the fourth paragraph by “the reasons for”.

4. Section 28 of the Act is replaced by the following sections:

“28. Where the Minister considers that the complaint is admissible and where the teacher has not admitted to having committed the alleged fault, the Minister shall submit the complaint to the inquiry committee.

“28.0.1. The Minister shall establish a committee whose mandate is to inquire into and give its opinion on situations involving a serious fault committed in the exercise of functions or an act derogatory to the honour or dignity of the teaching profession.

The committee shall be composed of three members, including a chair selected from among the members of the Barreau who, in the Minister’s opinion,

is familiar with the educational community. The other two members must have expertise, experience and a marked interest in the protection of minors or handicapped persons. The members shall be selected after consultation with bodies that the Minister considers to be most representative of the principals of educational institutions, of the teachers of those institutions and of the parents of students attending such institutions.

The members of the committee are appointed for a term not exceeding five years. At the expiry of their terms, the members shall remain in office until they are replaced or reappointed.

The salary of the committee members and the rules relating to the reimbursement of expenses they incur in the exercise of their functions shall be fixed by regulation of the Minister.

“28.0.2. The committee shall establish the operating rules applicable to its inquiries.

The operating rules must include measures specific to inquiries involving situations of sexual violence.

The operating rules shall be submitted to the Minister for approval.”

5. The Act is amended by inserting the following section after section 28:

“28.1. The Minister shall submit to the inquiry committee any situation concerning a teacher that is brought to the Minister’s attention if he is of the opinion that the information in his possession could demonstrate a serious fault committed in the exercise of the teacher’s functions or an act derogatory to the honour or dignity of the teaching profession.

That information is processed as a complaint and examined in accordance with the provisions of this division, with the necessary modifications.”

6. Section 29 of the Act is amended by inserting the following paragraph after the first paragraph:

“The Minister may, on such an occasion, suspend the teacher’s teaching licence.”

7. Section 34.5 of the Act is amended by replacing “minors” in the second paragraph by “minors or handicapped persons”.

8. Section 34.6 of the Act is amended

(1) by inserting “in the second paragraph of section 29 or” after “referred to” in the first paragraph;

(2) by inserting the following paragraph after the first paragraph:

“However, the Minister may, where urgent action is required or to prevent irreparable harm, suspend or revoke a teaching licence without being bound by those prior obligations. In such a case, the person concerned by the decision may, within the time it specifies, submit observations to the Minister for a review of the decision.”

9. Section 34.7 of the Act is amended by inserting “in the second paragraph of section 29 or” after “referred to” in the first paragraph.

10. Section 35 of the Act is amended by adding the following paragraph at the end:

“The same applies if the teacher covered by such an authorization admits to having committed a serious fault in the exercise of his functions or an act derogatory to the honour or dignity of the teaching profession or has, in the inquiry committee’s opinion, committed such a fault or act.”

11. Section 75.1 of the Act is amended by inserting “, in the form prescribed by the Minister,” after “adopting” in the first paragraph.

12. Section 215 of the Act is amended

(1) by inserting “or handicapped” after all occurrences of “minor” in the second paragraph;

(2) by adding the following paragraph at the end:

“The agreement must be accompanied by the code of ethics provided for in section 258.0.1 and provide that any person required to work with minor or handicapped students or be in contact with them must undertake to comply with that code.”

13. Section 220 of the Act is amended by replacing “reported to the institution and the measures taken.” in the second paragraph by “brought to the institution’s attention and the measures taken. The report must also state, in addition to the elements the Minister may prescribe, the number and nature of the reports brought to the school service centre’s attention concerning any failure to comply with the provisions of its code of ethics that could reasonably pose a threat for the physical or psychological safety of the students, the processing time for those reports and the measures taken.”

14. The Act is amended by inserting the following sections before section 258.1:

“258.0.1. The school service centre must adopt, in the form prescribed by the Minister, a code of ethics applicable to members of its personnel and to any person required to work with minor or handicapped students or be in contact

with them. The code must set out, in particular, the practices and conduct expected of persons required to work with minor or handicapped students or be in contact with them. In addition, the code must set out the obligation to report to the school service centre without delay any failure to comply with its provisions that could reasonably pose a threat for the physical or psychological safety of the students.

The school service centre shall publish the code of ethics on its website and make the code otherwise accessible to any person who requests it.

“258.0.2. The school service centre shall take all necessary measures to preserve the confidentiality of any information allowing a person who has made a report to be identified, unless the person consents to being identified. However, the school service centre may communicate the identity of the person to the director of youth protection or to the police force concerned.”

15. Section 258.4 of the Act is amended

(1) by replacing “judicial record verification guide for school service centres” by “guide for school service centres on the verification of judicial records and of behaviours that could reasonably pose a threat for the physical or psychological safety of students”;

(2) by adding the following sentence at the end: “In particular, the guide must pertain to the period covered by the verification of behaviours.”;

(3) by adding the following paragraph at the end:

“Behaviours that could reasonably pose a threat for the physical or psychological safety of the students include acts of sexual violence.”

16. Section 261.0.1 of the Act is amended by inserting “or handicapped” after “minor” in the first paragraph.

17. Section 261.0.2 of the Act is amended

(1) by inserting “or handicapped” after both occurrences of “minor” in the first paragraph;

(2) by inserting “, subject to the regulation made under section 449.1” at the end of the second paragraph.

18. Sections 261.0.3 and 261.0.4 of the Act are amended by inserting “or handicapped” after all occurrences of “minor”.

19. The Act is amended by inserting the following sections after section 261.1:

“261.1.1. Before hiring persons who would be required to work with its minor or handicapped students or be regularly in contact with them, the school service centre shall ensure that those persons have not exhibited behaviour that

could reasonably pose a threat for the physical or psychological safety of students in the exercise of their functions in a school service centre or in an educational institution governed by the Act respecting private education (chapter E-9.1) or an educational body in Québec that provide all or part of the educational services covered by this Act.

For that purpose, those persons shall send to the school service centre a declaration concerning the functions they exercise or have exercised in a school service centre or in such an institution or body.

The declaration must be accompanied by the written consent of the person concerned to the verification of the information or documents necessary for establishing the existence or absence of any behaviour referred to in the first paragraph and, where applicable, to the communication of the absence of such information or documents. If the verification reveals information or documents that could establish the existence of such behaviour, the person must, after examining them and if the person still wishes to apply, decide whether he consents to them being communicated to the school service centre that requests them in order for the centre to assess the content.

“261.1.1. At the request of the school service centre, persons who work with its minor or handicapped students and persons who are regularly in contact with them must send it a declaration concerning the functions they exercise or have exercised in a school service centre or in an educational institution governed by the Act respecting private education (chapter E-9.1) or an educational body in Québec that provide all or part of the educational services covered by this Act.

The school service centre shall ensure that those persons have not exhibited behaviour that could reasonably pose a threat for the physical or psychological safety of students in the exercise of their functions in a school service centre or in such an institution or body.

The third paragraph of section 261.1.1 applies, with the necessary modifications, to such a declaration.

“261.1.2. Every school service centre must, at the request of a school service centre or of an educational institution governed by the Act respecting private education (chapter E-9.1) or an educational body in Québec that provide all or part of the educational services covered by this Act, provide it with the information and documents the school service centre holds and that are required to establish the existence or absence of behaviour that could reasonably pose a threat for the physical or psychological safety of students with a view to the hiring of a person who would be required to work with the centre’s, institution’s or body’s minor or handicapped students or be regularly in contact with them or for the purpose of verifying the existence or absence of such behaviour from a person who works with those minor or handicapped students or is regularly in contact with them.

The school service centre shall keep the information and documents necessary for the purposes of this subdivision, taking into account the guide prepared by the Minister in accordance with section 258.4.

“261.1.3. Where a school service centre concludes that behaviour that could reasonably pose a threat for the physical or psychological safety of students has been exhibited by a person who works with its minor or handicapped students or is regularly in contact with them in the exercise of his functions, that person must send to the school service centre a declaration concerning the functions he exercises in another school service centre or in an educational institution governed by the Act respecting private education (chapter E-9.1) or an educational body in Québec that provide all or part of the educational services covered by this Act.

The school service centre shall inform any other school service centre and any educational institution governed by the Act respecting private education and any educational body in Québec that provide all or part of the educational services covered by this Act in which the person exercises a function of the situation.

“262. Any employee of a school service centre who, in the exercise of his functions, has reasonable grounds to believe that a teacher has committed a serious fault in the exercise of his functions or an act derogatory to the honour or dignity of the teaching profession involving behaviour that could reasonably pose a threat for the physical or psychological safety of students must report the situation without delay to the Minister.

“263. No provision of an agreement or decree within the meaning of the Act respecting labour standards (chapter N-1.1) or of a regulation made under section 451 may have the effect of preventing a school service centre, where the latter imposes a disciplinary measure on an employee who works with minor or handicapped students or is regularly in contact with them because of a behaviour that could reasonably pose a threat for the physical or psychological safety of students, from taking into account a disciplinary measure that has previously been imposed on the employee because of such a behaviour.”

20. Section 297 of the Act is amended by adding the following paragraph at the end:

“The contract must be accompanied by the code of ethics provided for in section 258.0.1 and provide that the driver must undertake to comply with that code.”

21. The Act is amended by inserting the following section after section 449:

“449.1. The Government may, by regulation,

(1) determine the information and documents necessary for establishing the existence or absence of a judicial record that police forces are required to

provide to a school service centre or to a person who is the subject of a judicial record verification;

(2) determine the cases in which a judicial record declaration must be requested by a school service centre and the cases in which the declaration must be verified;

(3) determine the terms and conditions applicable to judicial record declarations and verifications, in particular the cases in which additional documents must be transmitted and the nature of those documents; and

(4) determine the intervals at which a judicial record declaration must be requested and verified by a school service centre.”

22. Section 456.1 of the Act is amended by replacing “28” by “28.0.1”.

23. Section 478 of the Act is amended by adding the following sentence at the end of the first paragraph: “The Minister may, in the same manner, designate a person to verify whether the information in his possession could demonstrate that a teacher has committed a serious fault in the exercise of his functions or an act derogatory to the honour and dignity of the teaching profession.”

24. The Act is amended by inserting the following section after section 479:

“**479.1.** Reprisals are prohibited against a person who, in good faith, makes a report or files a complaint, cooperates in the processing of a report or complaint or accompanies a person who makes a report or files a complaint under sections 26, 28.1, 258.0.1 and 262.

It is also prohibited to threaten to take a reprisal against a person to dissuade the person from performing an act described in the first paragraph.

The demotion, suspension, termination of employment or transfer of a person or any disciplinary or other measure that adversely affects the employment or working conditions of a person is presumed to be a reprisal. Depriving a student, child or their parents of any right or subjecting them to differential treatment or suspending or expelling a student who has made a report or filed a complaint is also presumed to be a reprisal.”

25. The Act is amended by inserting the following section after section 480:

“**481.** Every person who threatens or intimidates or attempts to threaten or intimidate a person or takes or attempts to take reprisals referred to in section 479.1 is liable to a fine of not less than \$2,000 nor more than \$20,000 in the case of a natural person and not less than \$10,000 nor more than \$250,000 in any other case.

For a subsequent offence, the amounts are doubled.”

ACT RESPECTING PRIVATE EDUCATION

26. The Act respecting private education (chapter E-9.1) is amended by inserting the following sections before section 54.1:

“54.0.1. An institution must adopt, in the form prescribed by the Minister, a code of ethics applicable to members of its personnel and to any person required to work with minor or handicapped students or be in contact with them. The code must set out, in particular, the practices and conduct expected of persons required to work with minor or handicapped students or be in contact with them. In addition, the code must set out the obligation to report to the institution without delay any failure to comply with its provisions that could reasonably pose a threat for the physical or psychological safety of the students.

The institution shall publish the code of ethics on its website and make the code otherwise accessible to any person who requests it.

“54.0.2. The institution shall take all necessary measures to preserve the confidentiality of any information allowing a person who has made a report to be identified, unless the person consents to being identified. However, the institution may communicate the identity of the person to the director of youth protection or to the police force concerned.”

27. Section 54.4 of the Act is amended

(1) by replacing “judicial record verification guide for institutions” by “guide for institutions on the verification of judicial records and of behaviours that could reasonably pose a threat for the physical or psychological safety of students”;

(2) by adding the following sentence at the end: “In particular, the guide must pertain to the period covered by the verification of behaviours.”;

(3) by adding the following paragraph at the end:

“Behaviours that could reasonably pose a threat for the physical or psychological safety of the students include acts of sexual violence.”

28. Section 54.5 of the Act is amended by inserting “or handicapped” after “minor”.

29. Section 54.6 of the Act is amended

(1) by inserting “or handicapped” after both occurrences of “minor” in the first paragraph;

(2) by inserting “, subject to a government regulation” at the end of the second paragraph.

30. Sections 54.7 and 54.8 of the Act are amended by inserting “or handicapped” after all occurrences of “minor”.

31. The Act is amended by inserting the following sections after section 54.11:

“54.11.1. Before hiring persons who would be required to work with its minor or handicapped students or be regularly in contact with them, the institution shall ensure that those persons have not exhibited behaviour that could reasonably pose a threat for the physical or psychological safety of students in the exercise of their functions in a school service centre or in an educational institution governed by this Act or an educational body in Québec that provide all or part of the educational services covered by the Education Act (chapter I-13.3).

For that purpose, those persons shall send to the institution a declaration concerning the functions they exercise or have exercised in a school service centre or in such an institution or body.

The declaration must be accompanied by the written consent of the person concerned to the verification of the information or documents necessary for establishing the existence or absence of any behaviour referred to in the first paragraph and, where applicable, to the communication of the absence of such information or documents. If the verification reveals information or documents that could establish the existence of such behaviour, the person must, after examining them and if the person still wishes to apply, decide whether he consents to them being communicated to the institution that requests them in order for the institution to assess the content.

“54.11.1.1. At the request of the institution, persons who work with its minor or handicapped students and persons who are regularly in contact with them must send it a declaration concerning the functions they exercise or have exercised in a school service centre or in an educational institution governed by this Act or an educational body in Québec that provide all or part of the educational services covered by the Education Act (chapter I-13.3).

The institution shall ensure that those persons have not exhibited behaviour that could reasonably pose a threat for the physical or psychological safety of students in the exercise of their functions in a school service centre or in such an institution or body.

The third paragraph of section 54.11.1 applies, with the necessary modifications, to such a declaration.

“54.11.2. Every institution must, at the request of a school service centre or of an educational institution governed by this Act or an educational body in Québec that provide all or part of the educational services covered by the Education Act (chapter I-13.3), provide it with the information and documents the institution holds and that are required to establish the existence or absence of behaviour that could reasonably pose a threat for the physical or psychological

safety of students with a view to the hiring of a person who would be required to work with the centre's, institution's or body's minor or handicapped students or be regularly in contact with them or for the purpose of verifying the existence or absence of such behaviour from a person who works with those minor or handicapped students or is regularly in contact with them.

The institution shall keep the information and documents necessary for the purposes of this subdivision, taking into account the guide prepared by the Minister in accordance with section 54.4.

“54.11.3. Where an institution concludes that behaviour that could reasonably pose a threat for the physical or psychological safety of students has been exhibited by a person who works with its minor or handicapped students or is regularly in contact with them in the exercise of his functions, that person must send to the institution a declaration concerning the functions he exercises in a school service centre or in an educational institution governed by this Act or an educational body in Québec that provide all or part of the educational services covered by the Education Act (chapter I-13.3).

The institution shall inform the school service centre and any educational institution governed by this Act and any educational body in Québec that provide all or part of the educational services covered by the Education Act in which the person exercises a function of the situation.

“54.11.4. Any employee of an institution who, in the exercise of his functions, has reasonable grounds to believe that a teacher has committed a serious fault in the exercise of his functions or an act derogatory to the honour or dignity of the teaching profession involving behaviour that could reasonably pose a threat for the physical or psychological safety of students must report the situation without delay to the Minister.

“54.11.5. No provision of an agreement or decree within the meaning of the Act respecting labour standards (chapter N-1.1) may have the effect of preventing an institution, where the latter imposes a disciplinary measure on an employee who works with minor or handicapped students or is regularly in contact with them because of a behaviour that could reasonably pose a threat for the physical or psychological safety of students, from taking into account a disciplinary measure that has previously been imposed on the employee because of such a behaviour.”

32. Section 63.1 of the Act is amended by inserting “, in the form prescribed by the Minister,” after “adopt” in the first paragraph.

33. Section 63.8 of the Act is amended by replacing “reported to the institution and the measures taken.” by “brought to the institution’s attention and the measures taken. The report must also state, in addition to the elements the Minister may prescribe, the number and nature of the reports brought to the institution’s attention concerning any failure to comply with the provisions of its code of ethics that could reasonably pose a threat for the physical or

psychological safety of the students, the processing time for those reports and the measures taken.”

34. Section 65.2 of the Act is amended

(1) by inserting “or handicapped” after all occurrences of “minor” in the second paragraph;

(2) by adding the following paragraph at the end:

“The agreement must be accompanied by the code of ethics provided for in section 54.0.1 and provide that any person required to work with minor or handicapped students or be in contact with them must undertake to comply with that code.”

35. Section 111 of the Act is amended by adding the following paragraphs at the end:

“(13) determine the cases in which a judicial record declaration must be requested by an institution and the cases in which the declaration must be verified;

“(14) determine the terms and conditions applicable to judicial record declarations and verifications, in particular the cases in which additional documents must be transmitted and the nature of those documents; and

“(15) determine the intervals at which a judicial record declaration must be requested and verified by an institution.”

36. Section 115 of the Act is amended by replacing the introductory clause of the first paragraph by the following:

“115. The Minister may designate a person generally or specially to verify whether the provisions of this Act and the statutory instruments are being complied with. The Minister may also, in the same manner, designate a person to verify whether the information in his possession could demonstrate that a teacher has committed a serious fault in the exercise of the teacher’s functions or an act derogatory to the honour or dignity of the teaching profession.

The person designated may”.

37. The Act is amended by inserting the following section after section 118:

“118.1. Reprisals are prohibited against a person who, in good faith, makes a report or files a complaint, cooperates in the processing of a report or complaint or accompanies a person who makes a report or files a complaint under sections 54.0.1 and 54.11.4.

It is also prohibited to threaten to take a reprisal against a person to dissuade the person from performing an act described in the first paragraph.

The demotion, suspension, termination of employment or transfer of a person or any disciplinary or other measure that adversely affects the employment or working conditions of a person is presumed to be a reprisal. Depriving a student, child or their parents of any right or subjecting them to differential treatment or suspending or expelling a student who has made a report or filed a complaint is also presumed to be a reprisal.”

38. The Act is amended by inserting the following section after section 135:

“135.1. Every person who threatens or intimidates or attempts to threaten or intimidate a person or takes or attempts to take reprisals referred to in section 118.1 is liable to a fine of \$2,000 to \$20,000 in the case of a natural person and \$10,000 to \$250,000 in any other case.

For a subsequent offence, the amounts are doubled.”

TRANSITIONAL AND FINAL PROVISIONS

39. A committee set up under section 28 of the Education Act (chapter I-13.3), as it read on the date preceding the date of coming into force of section 4 of this Act, to inquire into a complaint continues the inquiry in accordance with the provisions of subdivision 3 of Division III of Chapter II of the Education Act, as they read on that date.

40. The Minister must, not later than the date that is five years after the date of coming into force of sections 14 and 26 of this Act, report to the Government on the implementation of this Act. The report must contain the number and nature of the reports brought to the attention of school service centres and private educational institutions each year concerning any failure to comply with the provisions of their code of ethics in accordance with section 220 of the Education Act and section 63.8 of the Act respecting private education (chapter E-9.1).

The report must be tabled by the Minister in the National Assembly within the next 30 days or, if the Assembly is not sitting, within 30 days of resumption.

41. The provisions of this Act come into force on the date or dates to be set by the Government.