



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FIFTH LEGISLATURE

Bill 419

(1998, chapter 27)

**An Act to amend the Act to promote
the parole of inmates**

Introduced 14 May 1998
Passage in principle 3 June 1998
Passage 17 June 1998
Assented to 17 June 1998

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EXPLANATORY NOTES

The chief object of this bill is to harmonize the Act to promote the parole of inmates with recent federal legislation concerning sentence determination for offences under the Criminal Code or another federal statute. The bill proposes amendments concerning the calculation of sentences for parole purposes and adds a provision to allow parole to be granted in certain exceptional circumstances. In addition, it introduces the possibility of terminating parole for reasons beyond the control of the inmate that do not call into question the inmate's willingness to comply with the conditions of parole, modifies the definition of "inmate", and excludes, under certain conditions, persons found guilty of contempt of court in a civil or penal matter as well as young offenders within the meaning of the Young Offenders Act committed to custody pursuant to that Act from becoming eligible for parole.

The bill also introduces changes to the organization and operation of the Commission québécoise des libérations conditionnelles. More specifically, the bill proposes that a person other than a member of the commission be authorized to rule on a suspension of parole, that the members of the commission from a community be authorized to mitigate or lift a condition of parole, that the decision-making powers of the commission regarding the review process be broadened, and that the requirement that either the chairman or vice-chairman sit on a review committee be abolished.

Bill 419

AN ACT TO AMEND THE ACT TO PROMOTE THE PAROLE OF INMATES

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. Section 1 of the Act to promote the parole of inmates (R.S.Q., chapter L-1.1) is amended by adding, at the end of paragraph *b*, the following: “, but not a young person within the meaning of the Young Offenders Act (Revised Statutes of Canada, 1985, chapter Y-1) who is committed to custody pursuant to that Act, or a person found guilty of contempt of court in a civil or penal matter where a condition of the sentence imposed requires that the person return before the court”.

2. The said Act is amended by inserting, after section 3, the following :

“3.1. The chairman shall be responsible for the administration and general direction of the commission.

The functions of the chairman include coordinating and assigning the work of the members of the commission, defining the commission’s policies and ensuring that a high standard of quality and coherence is maintained in the commission’s decisions.

“3.2. The vice-chairman shall replace the chairman when the latter is absent or unable to act or, if the position of chairman is vacant, until a new chairman is appointed ; the vice-chairman shall, in such circumstances, exercise the functions and powers assigned to the chairman by this Act.”

3. Section 4 of the said Act is amended by replacing “two years” by “three years”.

4. Section 9 of the said Act is amended by inserting “other than the chairman” after “commission” in the first paragraph.

5. Section 14 of the said Act is replaced by the following :

“14. Documents or copies emanating from the commission or forming part of its records are authentic when signed by the chairman, the secretary or a member designated by the chairman.”

6. Section 19 of the said Act is amended

(1) by replacing, in the English text, the word “qualifies” in the first line by the words “becomes eligible”;

(2) by replacing subparagraph *b* of the first paragraph by the following :

“(b) after serving one-half of the sentence of imprisonment imposed by the court or ten years, whichever is less, in the case of a sentence of imprisonment of two years or more, where the circumstances set out in section 743.6 of the Criminal Code apply ; or”.

7. The said Act is amended by inserting, after section 19, the following:

“**19.1.** An inmate who receives an additional sentence is not eligible for parole

(a) until the day on which the inmate has served any remaining period of ineligibility in relation to the sentence the inmate was serving and one-third of the additional sentence, commencing on the day on which the additional sentence is imposed, if it is consecutive and imposed under the Criminal Code or another federal statute ; or

(b) until the day on which the inmate has served one-third of the sentence that includes the additional sentence as provided in section 25, in other cases.

“**19.2.** The parole of an inmate who receives an additional sentence is suspended and cannot resume

(a) until the day on which the inmate has served one-third of the additional sentence, commencing on the day on which the additional sentence is imposed, if it is consecutive and imposed under the Criminal Code or another federal statute ; or

(b) until the day on which the inmate has served one-third of the sentence that includes the additional sentence as provided in section 25, in other cases.

However, parole cannot resume if the commission or a designated person has ordered a suspension of parole pursuant to section 26.

“**19.3.** Notwithstanding sections 19, 19.1 and 19.2, parole may be granted to an inmate

(a) who is terminally ill ;

(b) whose physical or mental health is likely to suffer serious damage if the inmate continues to be held in confinement ;

(c) for whom continued confinement would constitute an excessive hardship that was not reasonably foreseeable at the time the inmate was sentenced; or

(d) who is the subject of an order to be surrendered under the Extradition Act (Revised Statutes of Canada, 1985, chapter E-23) or the Fugitive Offenders Act (Revised Statutes of Canada, 1985, chapter F-32) and to be detained until surrendered.”

8. Section 20 of the said Act is amended

(1) by replacing the first sentence of the second paragraph by the following :
“The commission may, upon application and in the light of new facts, re-examine the case of an inmate whose parole has previously been refused, terminated or revoked.”;

(2) by replacing “examine” in the second sentence of the second paragraph by “re-examine”;

(3) by replacing “the decision to refuse or to revoke parole” in the second sentence of the second paragraph by “a decision to refuse, terminate or revoke parole”.

9. The said Act is amended by inserting, after section 20, the following :

“20.1. The commission is not required to examine the case of an inmate who, at the time fixed for a hearing under section 20, is unlawfully at large, stands accused, is serving a sentence under the Young Offenders Act or is the subject of an immigration inquiry. If the inmate is unlawfully at large, however, the commission must examine the case as soon as possible after being informed of the inmate’s return to custody.”

10. Section 25 of the said Act is amended by replacing “last of them” by “the last of the sentences to be served”.

11. The heading of subdivision 2 of Chapter III of the said Act is amended by inserting “, *termination*” after “*Suspension*”.

12. Section 26 of the said Act is amended by inserting “or for any valid ground put forward by the inmate,” after “contravention,” in the first paragraph.

13. The said Act is amended by inserting, after section 26, the following :

“26.1. The person who has issued a warrant under section 26 or, after consulting the commission, any person designated by the commission in writing may, once the inmate has been recommitted to custody and the case has been examined, cancel the suspension or refer the record to the commission.”

14. Section 28 of the said Act is amended by replacing “or order his commitment, or release him” by “, order that the inmate’s parole be terminated if it was suspended by reason of circumstances beyond the control of the inmate and order the commitment of the inmate, or release the inmate”.

15. The said Act is amended by inserting, after section 30, the following :

“**30.1.** An inmate whose parole has been terminated must complete the portion of the term of imprisonment that remained to be served at the time parole was granted, less

(a) any remission time credited at the time parole was granted ;

(b) any time spent on parole ;

(c) any time spent in custody by reason of the suspension of the inmate’s parole ; and

(d) any remission time for the period spent in custody by reason of such suspension.

“**30.2.** Where the suspension of an inmate’s parole is cancelled, the inmate is deemed to have continued serving the sentence during the period beginning on the date of the suspension and ending on the date on which the suspension was cancelled.”

16. Section 34 of the said Act is amended by inserting “, to terminate” after “refuse”.

17. Section 35 of the said Act is amended by replacing “members” by “full-time members”.

18. Section 36 of the said Act is repealed.

19. Section 37 of the said Act is replaced by the following :

“**37.** The commission, after examining the record, may

(a) affirm, cancel or vary the decision under review ;

(b) refer the case for re-examination under section 20 and, pending the re-examination, order the continuation of the decision under review.”

20. Section 38 of the said Act is amended

(1) by striking out “full-time” ;

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

“A member of the commission or, after consulting the commission, a person designated in writing by the commission may, in addition, reinforce or add to the conditions.

No decision under the second paragraph may be made without giving the inmate an opportunity to present observations.”

21. Section 49 of the said Act is amended by replacing, in the English text, the word “qualifies” in subparagraph *b* of the first paragraph by the words “becomes eligible”.

22. This Act comes into force on 17 June 1998, except section 13 which comes into force on the date to be fixed by the Government.