



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SIXTH LEGISLATURE

Bill 34

(1999, chapter 47)

**An Act to amend the Civil Code
as regards names and the register
of civil status**

**Introduced 4 May 1999
Passage in principle 18 May 1999
Passage 28 October 1999
Assented to 5 November 1999**

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EXPLANATORY NOTES

This bill amends the Civil Code as regards names and the register of civil status.

Thus, the bill specifies that the choice of the parents prevails as far as the assignment of a name to a child is concerned and transfers, from the registrar of civil status to the Attorney General of Québec, the power to bring the matter before the court if the name chosen clearly invites ridicule. In addition, the bill provides that it is possible to give a child a surname that is one of the surnames making up the compound surname of the child's father or mother. As well, a rule is established whereby surnames and given names containing characters which do not exist in the alphabet used in French will be transcribed into that alphabet.

The bill also contains a number of provisions concerning the register of civil status. It provides for transmission without delay of declarations of marriage to the registrar of civil status and for transmission of declarations of death to the registrar by funeral directors. It extends the registrar's powers as regards tardy declarations relating to an act of civil status and enables the registrar, subject to certain conditions, to register a filiation that was not declared initially. Amendments of a more technical nature are also proposed to allow notations subsequent to the drawing up of an act of civil status to be made in the computerized copy of the register only, to better define the contents of a copy of an act of civil status and to authorize the registrar to delegate more functions to personnel members.

Finally, transitional measures are proposed which will facilitate the implementation of the changes made by the bill.

LEGISLATION AMENDED BY THIS BILL :

– Civil Code of Québec (1991, chapter 64).

Bill 34

AN ACT TO AMEND THE CIVIL CODE AS REGARDS NAMES AND THE REGISTER OF CIVIL STATUS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. Article 51 of the Civil Code of Québec (1991, chapter 64) is replaced by the following article :

“51. A child is given, as his mother and father choose, one or more given names and a surname composed of not more than two of the surnames composing his parents’ surnames.”

2. Article 54 of the said Code is amended

(1) by replacing “invite ridicule or which” in the first paragraph by “clearly invite ridicule or”;

(2) by replacing the second paragraph by the following paragraphs:

“If they refuse to do so, the registrar nevertheless draws up the act of birth and notifies the Attorney General of Québec. The Attorney General may bring the matter before the court within ninety days of the registration of the act to request that the surname of one of the parents be substituted for the surname chosen by the parents or that two given names in common use be substituted for the given names chosen by the parents.

Until the time for bringing the matter before the court expires or, if proceedings are brought, until the judgment acquires the authority of *res judicata*, the registrar of civil status makes a notation of the notice given to the Attorney General on every copy, certificate and attestation issued on the basis of the act of birth.”

3. Article 108 of the said Code is amended by adding the following paragraph at the end:

“Where a name contains characters, diacritical signs or a combination of a character and a diacritical sign that are not used for the writing of French or English, the name must be transcribed into French or English, at the option of the interested person. The transcription is entered on the written copy of the register and is substituted for the original form of the name in the computerized copy of the register and on copies of acts, certificates and attestations. The

original spelling of the name is preserved, subject to the modifications required by the transcription.”

4. Article 118 of the said Code is replaced by the following article :

“118. The declaration of marriage is made without delay to the registrar of civil status by the person having solemnized the marriage.”

5. Article 122 of the said Code is amended by replacing “; he transmits without delay another copy of the attestation to the registrar of civil status” in the second paragraph by “. Another copy is sent without delay to the registrar of civil status by the physician or by the funeral director who takes charge of the body of the deceased”.

6. Article 125 of the said Code is amended by replacing the last sentence by the following sentences : “If a funeral director has taken charge of the body, he declares the time, place and mode of disposal of the body. The declaration is made before a witness, who signs it.”

7. Article 129 of the said Code is amended by inserting “in the computerized copy of the register” after “entries” in the second paragraph.

8. Article 130 of the said Code is amended by adding the following paragraph at the end :

“Where a tardy declaration is made which adds to an earlier one without contradicting it, the registrar of civil status may, with the consent of the author of the earlier declaration, alter the act of civil status accordingly. However, in the case of a declaration of filiation, alteration of the act of civil status is conditional upon the consent of the child if he is 14 years of age or over and upon the absence of maternity or paternity established in favour of another person by an act, uninterrupted possession of status or a legal presumption ; it is also conditional upon the absence of any objection from a third person within twenty days of the publication of a notice in accordance with the rules determined by government regulation.”

9. Article 134 of the said Code is amended by adding the following paragraph at the end :

“Such notations are made in the computerized copy of the register.”

10. Article 135 of the said Code is amended

(1) by replacing “shall make a notation in the acts of birth and marriage of each of the persons concerned” in the first paragraph by “shall make a notation of the judgment in the computerized version of the acts of birth and marriage of each of the parties” ;

(2) by inserting “in the computerized copy of the register” after “entries” in the second paragraph.

11. Article 137 of the said Code is amended by inserting “in the computerized copy of the register” after “entries” in the second paragraph.

12. Article 142 of the said Code is amended by adding the following sentence at the end: “Corrections are carried over to the computerized version of the register.”

13. Article 145 of the said Code is amended by replacing “of an act of civil status, as they have been altered where that is the case” by “of an act of civil status, including the notations thereon, as altered, but excluding notations required by regulation which are not essential to the establishment of the status of a person”.

14. Article 151 of the said Code is amended

(1) by replacing the first paragraph by the following paragraphs:

“151. The registrar of civil status may designate one or more members of his personnel to replace him temporarily if he is absent or unable to act. He may also delegate certain of his functions to his personnel.

Designations and delegations under the first paragraph are made in writing. They take effect upon their signature by the registrar of civil status. Acts of designation and delegation must be published in the *Gazette officielle du Québec*.”;

(2) by replacing “an act or” in the second paragraph by “or altering an act or for”.

15. Article 375 of the said Code is amended by replacing “, within thirty days of the solemnization,” by “without delay”.

16. Article 51 of the said Code, replaced by section 1 of this Act and article 145 of the said Code, amended by section 13 of this Act, are deemed to have always read in their new versions.

17. The registrar of civil status may, on the request of the father and mother of a minor child, substitute a surname consisting of one of the surnames composing his parents’ surnames for the compound surname assigned to the child in a declaration of birth made between 1 January 1994 and 5 November 1999.

This section ceases to have effect on 5 November 2001.

18. Sections 7 and 9 to 12 have effect from 1 January 1994.

19. This Act comes into force on 5 November 1999, except section 8, which comes into force on the date to be fixed by the Government.