

Draft Regulations

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Civil Code of Québec
(a. 564; 2004, c. 3, s. 14)

Youth Protection Act
(R.S.Q., c. P-34.1, s. 71.6; 2004, c. 3, s. 22)

Adoption without a certified body of a child domiciled outside Québec by a person domiciled in Québec

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Order respecting the adoption without a certified body of a child domiciled outside Québec by a person domiciled in Québec, the text of which appears below, may be made by the Minister on the expiry of 45 days following this publication.

The draft Order sets out the cases in which a person domiciled in Québec may be authorized to make arrangements for the adoption of a child domiciled outside Québec without having to go through a certified body, and establishes the terms and conditions of the applicable adoption process. The draft Order also specifies which information and documents must in every case be provided by a prospective adopter in support of an application.

Further information may be obtained by contacting

Luce de Bellefeuille
Secretary and Director General
Secrétariat à l'adoption internationale
201, boulevard Crémazie Est, 1^{er} étage
Montréal (Québec) H2M 1L2
Telephone: (514) 873-4747
Fax: (514) 873-0157

Any interested person having comments to make on the draft Order is asked to send them in writing, before the expiry of the 45-day period, to the Minister of Health and Social Services, 1075, chemin Sainte-Foy, 15^e étage, Québec (Québec) G1S 2M1.

PHILIPPE COUILLARD,
Minister of Health and Social Services

Order respecting the adoption without a certified body of a child domiciled outside Québec by a person domiciled in Québec

Civil Code of Québec
(a. 564; 2004, c. 3, s. 14)

Youth Protection Act
(R.S.Q., c. P-34.1, s. 71.6; 2004, c. 3, s. 22)

DIVISION 1 GENERAL

1. This Order governs the adoption of a child domiciled outside Québec by a person domiciled in Québec when the adoption arrangements are made without a body certified by the Minister under the Youth Protection Act.

2. Pursuant to article 564 of the Civil Code, only persons who meet the criteria and conditions set out in this Order may, without a body certified by the Minister, make arrangements for the adoption of a child domiciled outside Québec.

3. Before making adoption arrangements, a prospective adopter must satisfy the Minister of Health and Social Services that the eligibility requirements set out in this Order and in the provisions that apply in Québec and in the child's State of origin have been met.

4. A prospective adopter authorized by the Minister must make the adoption arrangements under the supervision or with the assistance of the Minister, as the case may be.

5. Unless otherwise provided in this Order, the provisions relating to the adoption of a child domiciled outside Québec by a person domiciled in Québec apply to adoptions under this Order.

6. A prospective adopter in pursuing the proposed adoption must comply with the provisions that apply in Québec and in the child's State of origin.

DIVISION 2

ADOPTIONS AUTHORIZED

§1. Adoption by the adopters themselves of a child domiciled outside Québec

7. A person may be authorized to make adoption arrangements without a certified body if

(1) the proposed adoption is of a brother, sister, nephew, niece, grandson, grand-daughter, cousin, half brother or half sister of the person or of the person's spouse including a de facto spouse with whom the person has been living for at least three years, provided that neither the person nor the person's spouse is bound to another person by marriage, civil union or another form of conjugal union that is still valid;

(2) the proposed adoption is of a child domiciled in a State for which no body has been certified, if

(a) the prospective adopter is or was a national of the State in which the adoption is being sought;

(b) under the law of that State, only a person who is or was a national of that State can adopt a child domiciled in that State; and

(c) the child is in the care of a competent child protection or adoption authority; or

(3) in the opinion of the Minister, owing to exceptional circumstances and for humanitarian considerations, the adoption of a child by the prospective adopter is the measure most likely to ensure the child's rights are respected owing to any of the following reasons:

(a) the child is in a situation such that the child's life or health would be in serious danger if the child were not adopted by the prospective adopter;

(b) the child has a handicap or biological characteristics that cause the child's rejection by the community in the child's State of origin; or

(c) the child has been placed in the care of the prospective adopter by the parents, tutor or a competent authority, and the prospective adopter has, for six consecutive months in the past two years in the child's State of origin, assumed the custody and supervision of the child and has fed and maintained the child and ensured the child's education because of the parents' or tutor's inability to do so.

§2. Adoption by the adopters themselves of a child domiciled in another province or a territory of Canada

8. A person may be authorized to make adoption arrangements without a certified body if the proposed adoption is of a child domiciled in a province or territory of Canada who has been placed in the care of a competent public child protection or adoption authority in that province or territory.

§3. Adoption with the assistance of the Minister

9. The Minister may assist the adopter with the adoption arrangements if

(1) the certification of the body with which the adopter has entered into a contract has not been renewed or has been suspended or revoked by the Minister and the adopter's file has already been forwarded to the State of origin;

(2) the adoption cannot take place through the certified body because the child's State of origin no longer authorizes the body to make adoption arrangements in its territory and the adopter's file has already been forwarded to the State of origin;

(3) the Minister wishes to assess the advisability of certifying a body for a State of origin for which no body has been certified;

(4) the child's State of origin requests the Minister intervene; or

(5) an agreement entered into between Québec and the child's State of origin provides for adoption with such assistance.

DIVISION 3

TERMS AND CONDITIONS OF THE ADOPTION PROCESS

§1. Authorization to initiate adoption arrangements without a certified body

10. The Minister receives the application from a prospective adopter who wishes to adopt without a certified body and must ascertain whether the application is eligible for consideration having regard to the conditions set out in this Order and in the provisions that apply in Québec and in the child's State of origin.

11. To determine whether the prospective adopter satisfies the conditions set out in the provisions of the State of origin, the Minister may require the prospective

adopter to provide a certified true copy of those provisions. The Minister may also require the prospective adopter to provide a certificate drawn up by a juriconsult.

12. The Minister must furnish the prospective adopter having filed an eligible application with a form allowing the Minister to collect the information required concerning

(1) the identity of the prospective adopter, establishing compliance with the age, civil status or family situation criteria;

(2) where applicable, the identity of the child and a description of the child's living conditions; and

(3) where applicable, the identity of the persons or authorities in whose care the child has been placed.

13. A prospective adopter must submit in support of the application all the documents required by the form to allow the following in particular to be established:

(1) the age of the prospective adopter and, if applicable, the age of the child;

(2) the nationality of the prospective adopter and, if applicable, the nationality of the child;

(3) if applicable, the kin relationship between the prospective adopter and the child; and

(4) the exceptional circumstances, if any, that warrant the processing of the application on humanitarian grounds.

14. The Minister must verify the information and documents received. In considering the application, the Minister may contact the prospective adopter and if the Minister considers it necessary, call the prospective adopter to an interview.

15. In considering the application and at any stage in the adoption process, the Minister may consult the immigration authorities and the competent adoption authorities in Québec or in the child's State of origin.

In deciding the application, the Minister must consider the situation in the State in which the child is domiciled and the guarantees given to the child, the child's parents and the prospective adopter.

16. After the application has been considered and all additional information and documents required by the prospective adopter's or the child's specific situation have been provided, the prospective adopter receives, if

applicable, confirmation authorizing the prospective adopter to undergo a psychosocial assessment and, if the recommendation in the assessment is positive, to initiate adoption arrangements in the State of origin concerned, on the conditions provided for by law and on any conditions the Minister considers necessary.

Except in urgent circumstances, the Minister must notify the prospective adopter in writing as prescribed by section 5 of the Act respecting administrative justice (R.S.Q., c. J-3) before refusing to grant the authorization referred to in the first paragraph, and allow the prospective adopter at least 10 days to present observations. The Minister's decision must be in writing and give reasons; an original must be sent to the prospective adopter.

17. The evaluator must send an original of the psychosocial assessment to the Minister.

18. On confirmation by the Minister of receipt of the positive psychosocial assessment, the prospective adopter may, pursuant to the authorization granted under section 16, initiate adoption arrangements in the State of origin concerned.

§2. Adoption arrangements and post-adoption follow-up

19. An adopter authorized to make adoption arrangements without a certified body must personally prepare his or her file and submit it to the State in which he or she is seeking to adopt.

20. The adopter must inform the Minister of the arrangements made and, on request, provide the Minister with documents showing that the adoption arrangements are in conformity with the provisions that apply in Québec and in the child's State of origin.

21. Before accepting an adoption proposal, the adopter must file a copy of the proposal with the Minister who must ascertain whether it conforms to the recommendation in the adopter's psychosocial assessment.

22. The adopter must show that the child is eligible for adoption by producing a decision issued by the competent authority in the State of origin.

23. The adopter must provide the Minister with proof that all consents have been given in view of a full adoption, as prescribed by articles 568 and 574 of the Civil Code.

The Minister may require consent in the appropriate form attached as a schedule to this Order.

24. Every document produced pursuant to this Order and written in a language other than French or English must be accompanied by a translation into French certified by an accredited translator, or in the absence of an accredited translator, by a qualified person in Québec.

25. Except for the adoptions referred to in subparagraph 1 or subparagraph *c* of subparagraph 3 of the first paragraph of section 7, an adopter may not establish contact with the biological parents in any of the following circumstances: before the child is born, before the child has been declared eligible for adoption, before the consents to the adoption have been given, or before adoption in the State of origin has been considered for the child, if such an adoption is possible.

26. The adopter must immediately inform the Minister of any change in his or her situation, or of any change concerning the child to be adopted or the persons, institutions or authorities in whose care the child has been placed, if the changes could affect the Minister's decision. The notice must be accompanied by any document or information relevant to the change.

If the Minister considers the change is material, the Minister may request an interview with the adopter or any other person concerned by the proposed adoption.

27. The Minister may amend or withdraw an authorization and terminate the adopter's arrangements if the Minister's verifications reveal an irregularity in the adoption process, or if the adopter has made misrepresentations or distorted a material fact in the application or in any document or information required in connection with the proposed adoption.

Except in urgent circumstances, the Minister must notify the adopter in writing as prescribed by section 5 of the Act respecting administrative justice (R.S.Q., c. J-3) before amending or withdrawing the authorization, and allow the adopter at least 10 days to present observations. The Minister's decision must be in writing and give reasons; an original must be sent to the adopter.

An amended authorization or a notice of withdrawal, as the case may be, must be sent by the Minister to the persons or authorities concerned by the application. A copy must be sent to the adopter.

28. A person who withdraws from the proposed adoption must so inform the Minister in writing within 30 days of the person's decision.

29. The adopter must as soon as possible inform the Minister of the child's arrival in Québec.

30. The adopter must, within six months after the child's arrival in Québec, undertake the judicial procedures required for the adoption to produce its effects in Québec.

The adopter must send a copy of the court's decision to the Minister as soon as it is received.

31. The adopter must, if required, produce and send the child's progress reports in the form, at the intervals and within the time determined by the child's State of origin, and file a copy of the reports with the Minister.

DIVISION 4 **COMING INTO FORCE**

32. This Order comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.



SCHEDULE I
(s. 23, 2nd par.)

SPECIAL CONSENT TO THE ADOPTION OF A CHILD DOMICILED OUTSIDE QUÉBEC BY A PERSON DOMICILED IN QUÉBEC

Read carefully before completing. You should obtain any advice and information you wish regarding the consequences of your consent before signing. Sign only if you fully understand each proposal. You should receive a copy of this document and, if possible, retain it for your records. You must not have received any payment or consideration for your consent.

Identity of the child:

Surname First or given name(s)

Born on:

Date of birth (DD/MM/YYYY)

Born in:

Birthplace of the child

The child's mother:

signs this consent signs an attached consent is deceased or unknown has been deprived of her rights

Surname of the mother

First or given name(s) of the mother

The child's father:

signs this consent signs an attached consent is deceased or unknown has been deprived of his rights

Surname of the father

First or given name(s) of the father

Sex of the child: male female

The child is currently domiciled at the following address:

.....

Declaration

I, the undersigned:

Surname First or given name(s)

Born on:

Date of birth (DD/MM/YYYY)

Having my domicile at the following address:

.....

declare as follows:

1. I am the mother, the father, the legal tutor of the child.
2. I am freely giving, without pressure or coercion, my consent to the adoption of this child.
3. I am giving my consent on behalf of:

Surname and first name(s) of the adoptive mother

Surname and first name(s) of the adoptive father

.....

Address

4. I know that the adoption of this child will operate to establish a bond of filiation with the adoptive parent(s).
5. I give my consent to an adoption that will operate to dissolve permanently the bond of filiation existing between this child and the child's biological family.
6. I have been told that I may withdraw my consent before and that after that date, my consent will be irrevocable.

I declare having understood the meaning and the scope of the preceding.

Place:, date:

Signature of the declarant or declarant's mark

ATTESTATION OF WITNESS(ES)

(if required by law or circumstances, for example in the case of illiterate or disabled persons)

.....
Surname First name(s) Signature

.....
Surname First name(s) Signature

.....
Surname First name(s) Signature

.....
Surname First name(s) Signature

ATTESTATION OF THE AUTHORITY AUTHORIZED TO RECEIVE THE CONSENT

.....
Name of authority

.....
Address

.....
Title or capacity of signatory

I hereby certify that the above-mentioned declarant (and witnesses) has (have) appeared before me and signed this document in my presence.

.....
Signature and seal



SCHEDULE II
(s. 23, 2nd par.)

**GENERAL CONSENT TO THE ADOPTION OF A CHILD DOMICILED OUTSIDE QUÉBEC BY A
PERSON DOMICILED IN QUÉBEC**

Read carefully before completing. You should obtain any advice and information you wish regarding the consequences of your consent before signing. Sign only if you fully understand each proposal. You should receive a copy of this document and, if possible, retain it for your records. You must not have received any payment or consideration for your consent.

Identity of the child:

.....
Surname First or given name(s)

Born on:

.....
Date of birth (DD/MM/YYYY)

Born in:

.....
Birthplace of the child

The child's mother:

signs this consent signs an attached consent is deceased or unknown has been deprived of her rights

.....
Surname of the mother

.....
First or given name(s) of the mother

The child's father:

signs this consent signs an attached consent is deceased or unknown has been deprived of his rights

.....
Surname of the father

.....
First or given name(s) of the father

Sex of the child: male female

The child is currently domiciled at the following address:

.....

Declaration

I, the undersigned:

.....
Surname First or given name(s)

Born on:

.....
Date of birth (DD/MM/YYYY)

Having my domicile at the following address:

.....

.....

declare as follows:

1. I am the mother, the father, the legal tutor of the child.
2. I am freely giving, without pressure or coercion, my consent to the adoption of this child.
3. I know that the child may be adopted by spouses or a person residing abroad.
4. I know that the adoption of this child will operate to establish a bond of filiation with the adoptive parent(s).
5. I give my consent to an adoption that will operate to dissolve permanently the bond of filiation existing between this child and the child's biological family.
6. I have been told that I may withdraw my consent before and that after that date, my consent will be irrevocable.

I declare having understood the meaning and the scope of the preceding.

Place:, date:

.....
Signature of the declarant or declarant's mark

ATTESTATION OF WITNESS(ES)

(if required by law or circumstances, for example in the case of illiterate or disabled persons)

.....
Surname First name(s) Signature

.....
Surname First name(s) Signature

.....
Surname First name(s) Signature

.....
Surname First name(s) Signature

ATTESTATION OF THE AUTHORITY AUTHORIZED TO RECEIVE THE CONSENT

.....
Name of authority

.....
Address

.....
Title or capacity of signatory

I hereby certify that the above-mentioned declarant (and witnesses) has (have) appeared before me and signed this document in my presence.

.....
Signature and seal



SCHEDULE III
(s. 23, 2nd par.)

CONSENT OF A CHILD DOMICILED OUTSIDE QUÉBEC TO THE CHILD'S ADOPTION BY A PERSON DOMICILED IN QUÉBEC

Read carefully before completing. You should obtain any advice and information you wish regarding the consequences of your consent before signing. Sign only if you fully understand each proposal. You should receive a copy of this document and, if possible, retain it for your records. You must not have received any payment or consideration for your consent.

Identity of the child:

Surname First or given name (s)

Born on:
Date of birth (DD/MM/YYYY)

Born in:
Birthplace of the child

The child's mother:
 has signed an attached consent is deceased or unknown has been deprived of her rights

.....
Surname of the mother First or given name (s) of the mother

The child's father:
 has signed an attached consent is deceased or unknown has been deprived of his rights

.....
Surname of the father First or given name(s) of the father

Sex of the child: male female

The child is currently domiciled at the following address:
.....

Declaration

I, the undersigned:
.....
Surname First or given name(s)

declare as follows:

1. I am years old.

2. I freely consent, without pressure or coercion, to my adoption by:

.....
Surname and first name(s) of the adoptive mother Surname and first name(s) of the adoptive father

.....
Address

3. I know that my adoption will operate to establish a bond of filiation with my adoptive parent(s).

4. I know that my adoption will operate to dissolve permanently the bond of filiation existing between me and my biological family.

5. I have been told that I may withdraw my consent before and that after that date, my consent will be irrevocable.

I declare having understood the meaning and scope of the preceding.

Place:, date:

.....
Signature of the declarant or declarant's mark

ATTESTATION OF WITNESS(ES)

(if required by law or circumstances, for example in the case of illiterate or disabled persons)

.....
Surname	First name(s)	Signature

.....
Surname	First name(s)	Signature

.....
Surname	First name(s)	Signature

.....
Surname	First name(s)	Signature

ATTESTATION OF THE AUTHORITY AUTHORIZED TO RECEIVE THE CONSENT

.....

Name of the authority

.....

.....

Address

.....

.....

Title or capacity of signatory

I hereby certify that the above-mentioned declarant (and witnesses) has (have) appeared before me and signed this document in my presence.

.....

Signature and seal