



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-EIGHTH LEGISLATURE

Bill 58

(2007, chapter 36)

An Act to amend the Act respecting labour standards with regard to absences and leave

**Introduced 27 November 2007
Passed in principle 6 December 2007
Passed 14 December 2007
Assented to 18 December 2007**

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EXPLANATORY NOTES

This bill amends the Act respecting labour standards to introduce the right for an employee to be absent from work for up to 104 weeks if the employee or the employee's minor child suffers a serious bodily injury following a criminal offence or if the employee's child or spouse dies as a result of such an offence.

The bill also introduces the right for an employee to be absent from work for up to 52 weeks if the employee's child or spouse commits suicide or if the employee's minor child disappears.

Under the bill, these rules may also apply in other circumstances and the conditions and manner in which this right may be exercised are specified, including reinstatement of the employee in the employee's former position at the end of the period of absence and the fact that these absences are without pay.

LEGISLATION AMENDED BY THIS BILL:

- Act respecting labour standards (R.S.Q., chapter N-1.1).

Bill 58

AN ACT TO AMEND THE ACT RESPECTING LABOUR STANDARDS WITH REGARD TO ABSENCES AND LEAVE

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 3 of the Act respecting labour standards (R.S.Q., chapter N-1.1) is amended

(1) by replacing “sections 79.7, 79.8” in paragraph 3 by “the second paragraph of section 79.1, sections 79.7 to 79.16, sections”;

(2) by replacing “sections 79.7, 79.8” in paragraph 6 by “the second paragraph of section 79.1, sections 79.7 to 79.16, sections”.

2. Section 70 of the Act is amended by replacing “or accident” in the third paragraph by “, accident or a criminal offence”.

3. Section 74 of the Act is amended by replacing “owing to sickness or accident or” in the second paragraph by “owing to sickness or accident under the first paragraph of section 79.1, or”.

4. The heading of Division V.0.1 of Chapter IV of the Act is amended by replacing “OR ACCIDENT” by “, ACCIDENT OR A CRIMINAL OFFENCE”.

5. Section 79.1 of the Act is amended

(1) by replacing “who is credited with three months of uninterrupted service may be absent from work, without pay,” in the first paragraph by “may be absent from work”;

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

“However, an employee may be absent from work for a period of not more than 104 weeks if the employee suffers serious bodily injury during or resulting directly from a criminal offence that renders the employee unable to hold his regular position. In that case, the period of absence shall not begin before the date on which the criminal offence was committed, or before the expiry of the period provided for in the first paragraph, where applicable, and shall not end later than 104 weeks after the commission of the criminal offence.”

6. The Act is amended by inserting the following sections after section 79.1:

“79.1.1. The second paragraph of section 79.1 applies if it may be inferred from the circumstances of the event that the employee’s serious bodily injury is probably the result of a criminal offence.

However, an employee may not take advantage of such a period of absence if it may be inferred from the circumstances that the employee was probably a party to the criminal offence or probably contributed to the injury by a gross fault.

“79.1.2. The second paragraph of section 79.1 applies if the employee suffered the injury

(1) while lawfully arresting or attempting to arrest an offender or suspected offender or assisting a peace officer making an arrest; or

(2) while lawfully preventing or attempting to prevent the commission of an offence or suspected offence, or assisting a peace officer who is preventing or attempting to prevent the commission of an offence or suspected offence.”

7. Section 79.2 of the Act is replaced by the following section:

“79.2. An employee must be credited with three months of uninterrupted service to take advantage of section 79.1, and the absence shall be without pay. In addition, the employee must advise the employer as soon as possible of a period of absence from work, giving the reasons for it. If it is warranted by the duration of the absence or its repetitive nature, for instance, the employer may request that the employee furnish a document attesting to those reasons.

During a period of absence under the second paragraph of section 79.1, the employee may return to work intermittently or on a part-time basis if the employer consents to it.”

8. Section 79.3 of the Act is amended by replacing “an absence owing to sickness or accident” at the end of the second paragraph by “a period of absence”.

9. Section 79.4 of the Act is amended

(1) by replacing “the absence owing to sickness or accident” in the first paragraph by “the period of absence”;

(2) by replacing “of the sickness or accident” in the second paragraph by “of the sickness, accident or criminal offence”.

10. Section 79.8 of the Act is amended

(1) by replacing “who is credited with three months of uninterrupted service may be absent from work, without pay,” in the first paragraph by “may be absent from work”;

(2) by striking out the second and fourth paragraphs.

11. The Act is amended by inserting the following sections after section 79.8:

“79.9. An employee is entitled to an extension of the period of absence under the first paragraph of section 79.8, which shall end not later than 104 weeks after the beginning of that period, if the employee must stay with his minor child who suffered serious bodily injury during or resulting directly from a criminal offence that renders the child unable to carry on regular activities.

“79.10. An employee may be absent from work for a period of not more than 52 weeks if the employee’s minor child has disappeared. If the child is found before the expiry of the period of absence, that period shall end on the eleventh day that follows the day on which the child is found.

“79.11. An employee may be absent from work for a period of not more than 52 weeks if the employee’s spouse or child commits suicide.

“79.12. An employee may be absent from work for a period of not more than 104 weeks if the death of the employee’s spouse or child occurs during or results directly from a criminal offence.

“79.13. Sections 79.9 to 79.12 apply if it may be inferred from the circumstances of the event that the serious bodily injury is probably the result of a criminal offence, the death is probably the result of such an offence or of a suicide, or the person who has disappeared is probably in danger.

However, an employee may not take advantage of these provisions if it may be inferred from the circumstances that the employee or, in the case of section 79.12, the deceased person, if that person is the spouse or a child of full age, was probably a party to the criminal offence or probably contributed to the injury by a gross fault.

“79.14. Sections 79.9 and 79.12 apply if the injury or death occurs in one of the situations described in section 79.1.2.

“79.15. A period of absence under sections 79.9 to 79.12 shall not begin before the date on which the criminal offence that caused the serious bodily injury was committed or before the date of the death or disappearance and shall not end later than 52 or 104 weeks after that date. However, during the period of absence, the employee may return to work intermittently or on a part-time basis if the employer consents to it.

If, during the same 52 or 104-week period, a new event occurs, affecting the same child and giving entitlement to a new period of absence, it is the longer period that applies, from the date of the first event.

“79.16. Section 79.2, the first paragraph of section 79.3 and sections 79.4, 79.5 and 79.6 apply to periods of absence under sections 79.8 to 79.12, with the necessary modifications.”

12. Section 81.14.1 of the Act is amended by replacing “79.8” in the third line by “any of sections 79.8 to 79.12”.

13. Section 89 of the Act is amended by replacing “or accident,” in paragraph 6 by “, accident or a criminal offence,”.

14. The amendments to the Act respecting labour standards made by this Act apply from 18 December 2007 with respect to an event that occurred before that date, for the time remaining in the period of absence normally applicable.

15. This Act comes into force on 18 December 2007.