



NATIONAL ASSEMBLY

FIRST SESSION

FORTY-FIRST LEGISLATURE

Bill 59

(2016, chapter 12)

An Act to amend various legislative provisions to better protect persons

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EXPLANATORY NOTES

This Act introduces various measures to better protect persons.

In that regard, the Act amends a number of rules set out in the Civil Code of Québec regarding the solemnization of marriages and civil unions, in particular by replacing the procedure for publishing a notice of solemnization. Under the Act, notices must be published on the website of the registrar of civil status, the registrar is allowed, except where provided otherwise, to grant a publication exemption, and the court is empowered to authorize the solemnization of a marriage if one of the intended spouses is a minor.

The Act also authorizes the courts of justice to order measures for protecting persons whose life, health or safety is threatened by another person by introducing a new type of injunction, called a protection order, in civil procedure matters.

In the fields of pre-school, primary, secondary and college-level education, any contract allowing the total or partial use of an immovable of a college, school board or private educational institution is deemed to contain a clause stipulating that such entities may cancel the contract if the other contracting party or any other person exhibits behaviour during such use that could reasonably pose a threat for the physical or psychological safety of the students or the other persons present. In addition, in those sectors, the Minister of Education, Recreation and Sports is granted new powers to inquire into any behaviour that could pose such threats for the students. Tolerance of such behaviour allows the Minister to withhold or cancel all or part of a subsidy intended for a private educational institution, a school board or a general and vocational college. Furthermore, such tolerance constitutes grounds for modifying or revoking the permit of a private educational institution.

The Act also provides that a judge of the Superior Court may, on an application by the Minister of Justice, order the loss of the benefit of an exemption from any municipal or school property tax, for the period that minister determines, for all or some of the immovables included in a unit of assessment entered on the roll in the name of an entity in cases where an officer or director of the entity has been found guilty of a designated criminal offence and where there are reasonable grounds to believe that any of the entity's resources were used to commit the offence.

Lastly, the Act amends the Youth Protection Act to make it clearer that excessive control can constitute psychological ill-treatment. It also further defines the role of the director of youth protection regarding a child and the child's parents, who require assistance, but whose situation does not otherwise warrant the application of the Act. In addition, it provides additional protection, if the situation requires it, of the confidentiality of some information regarding children.

LEGISLATION AMENDED BY THIS ACT:

- Civil Code of Québec;
- Code of Civil Procedure (chapter C-25.01);
- General and Vocational Colleges Act (chapter C-29);
- Act respecting private education (chapter E-9.1);
- Act respecting municipal taxation (chapter F-2.1);
- Education Act (chapter I-13.3);
- Youth Protection Act (chapter P-34.1);
- Act respecting health services and social services (chapter S-4.2).

Bill 59

AN ACT TO AMEND VARIOUS LEGISLATIVE PROVISIONS TO BETTER PROTECT PERSONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CIVIL CODE OF QUÉBEC

1. Article 64 of the Civil Code of Québec is amended by replacing “and to the publication of the application and decision” by “and to the publication of the application”.

2. Article 67 of the Code is amended by replacing “Notice of the change is published in the *Gazette officielle du Québec*” in the second paragraph by “Notice of the decision of the registrar of civil status or of the judicial decision rendered in review of the decision of the registrar is published in accordance with the rules determined by government regulation.”.

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

“118. The declaration of marriage is made to the registrar of civil status by the officiant within 30 days after the solemnization.”

4. Article 120 of the Code is amended by replacing “the authorizations or consents obtained” by “the fact that the court has authorized the solemnization of the marriage”.

5. Article 366 of the Code is amended by replacing “or” after “in places which conform to those rites” in the second paragraph by “and”.

6. Article 368 of the Code is amended

(1) by replacing the first sentence of the first paragraph by the following sentence: “Publication shall be effected by means of a notice posted, for 20 days before the date fixed for the solemnization of the marriage, on the website of the registrar of civil status.”;

(2) by striking out the second paragraph.

7. Article 369 of the Code is amended

(1) by replacing “and the date and place of birth of each” by “the year and place of their birth, the scheduled solemnization date and the name of the officiant”;

(2) by adding the following sentence at the end: “The other rules governing publication of the marriage are determined by the Minister of Justice.”;

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

“On receipt of the notice of publication, the registrar of civil status shall ensure that the officiant is competent.”

8. Article 370 of the Code is replaced by the following article:

“370. The registrar of civil status may, for a serious reason, grant a dispensation from publication on an application by the intended spouses and the officiant.

However, if the life of one of the intended spouses is endangered and the marriage must be solemnized promptly without it being possible to obtain a dispensation from the registrar, the officiant may grant the dispensation. In such a case, when sending the declaration of marriage to the registrar of civil status, the officiant shall include the dispensation, which must specify the grounds for granting it.”

9. Article 372 of the Code is amended by adding “, in particular if, in the person’s opinion, the consent of one of the intended spouses is likely not to be free or enlightened” at the end of the first paragraph.

10. Article 373 of the Code is amended

(1) by replacing “that the person having parental authority or, if applicable, the tutor has consented to the marriage” by “that the court has authorized the solemnization of the marriage”;

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

“The minor may apply alone for the court’s authorization. The person having parental authority or, if applicable, the tutor must be summoned to give his or her advice.”

11. Article 375 of the Code is amended by replacing “without delay” by “within 30 days after the solemnization”.

12. The Code is amended by inserting the following article after article 376:

“376.1. The rules governing the solemnization of marriage prescribed by the Minister of Justice apply, to the extent determined by the Minister, to the persons authorized by the Minister to solemnize marriages.”

13. The Code is amended by inserting the following article after article 376.1:

“376.2. The measures that may be taken in the event of an officiant’s non-compliance with the rules governing the solemnization of marriages are determined by regulation of the Minister of Justice.”

14. Article 380 of the Code is amended by adding “, in particular if the consent of one of the spouses was not free or enlightened” at the end of the second paragraph.

15. Article 521.4 of the Code is amended by adding “, in particular if, in the person’s opinion, the consent of one of the intended spouses is likely not to be free or enlightened” at the end of the first paragraph.

16. Article 521.10 of the Code is amended by adding “, in particular if the consent of one of the spouses was not free or enlightened” at the end of the second paragraph.

17. Article 3088 of the Code is amended by replacing “or by the law of the State of domicile or of nationality of one of the spouses.” at the end of the second paragraph by “. However, if one of the spouses is domiciled in Québec and is a minor when the marriage is solemnized, the marriage must be authorized by the court.”

CODE OF CIVIL PROCEDURE

18. Article 49 of the Code of Civil Procedure (chapter C-25.01) is amended by inserting “protection orders or” after “or issue” in the second paragraph.

19. Article 58 of the Code is amended by inserting “or protection order” after both occurrences of “injunction” in the second paragraph.

20. Article 458 of the Code is amended

(1) by inserting “to the registrar of civil status and” after “the officiant,” in the first paragraph;

(2) by striking out “and, in the case of a marriage, to any person who must consent to its solemnization” at the end of the first paragraph;

(3) by adding the following sentence at the end of the third paragraph: “The court may also, on an application by the opposer, order that damages be paid

by anyone who takes or threatens to take reprisals against the opposer because of the opposer's opposition."

21. Article 509 of the Code is amended by inserting the following paragraphs after the first paragraph:

"Such an injunction may direct a natural person to refrain from or cease doing something or to perform a specified act in order to protect another natural person whose life, health or safety is threatened. Such an injunction, called a protection order, may be obtained, in particular, in a context of violence, such as violence based on a concept of honour. A protection order may only be issued for the time and on the conditions determined by the court, without however exceeding three years.

A protection order may also be requested by another person or a body if the threatened person consents to it or, failing that, with the authorization of the court."

GENERAL AND VOCATIONAL COLLEGES ACT

22. The General and Vocational Colleges Act (chapter C-29) is amended by inserting the following section after section 6.0.1:

"6.0.2. Any contract that allows the total or partial use of an immovable of a college is deemed to contain a clause allowing the college to cancel the contract if the other contracting party or any person exhibits behaviour during such use that could reasonably pose a threat for the physical or psychological safety of the students or of the other persons present.

A notice of cancellation shall be sent to the other contracting party. The cancellation takes effect on receipt of the notice. No compensation or indemnity may be claimed by the other contracting party."

23. Section 29 of the Act is amended

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

"The Minister may also designate a person to inquire into any behaviour that could reasonably pose a threat for the students' physical or psychological safety.";

(2) by replacing "so designated" in the second paragraph by "designated by the Minister".

24. Section 29.2 of the Act is amended by inserting the following paragraph after paragraph *a*:

"(a.1) where the college does not use the means at its disposal to put an end to behaviour that could reasonably pose a threat for the students' physical or psychological safety;".

25. Section 29.8 of the Act is amended by adding the following sentence at the end: “The same rule applies if the college does not use the means at its disposal to put an end to behaviour that could reasonably pose a threat for the students’ physical or psychological safety.”

26. The Act is amended by inserting the following section after section 43:

“**43.1.** Any contract that allows the total or partial use of an immovable of a regional college is deemed to contain a clause allowing the regional college to cancel the contract if the other contracting party or any person exhibits behaviour during such use that could reasonably pose a threat for the physical or psychological safety of the students or of the other persons present.

A notice of cancellation shall be sent to the other contracting party. The cancellation takes effect on receipt of the notice. No compensation or indemnity may be claimed by the other contracting party.”

ACT RESPECTING PRIVATE EDUCATION

27. The Act respecting private education (chapter E-9.1) is amended by inserting the following section after section 65:

“**65.1.** Any contract that allows the total or partial use of an immovable of an institution is deemed to contain a clause allowing the institution to cancel the contract if the other contracting party or any person exhibits behaviour during such use that could reasonably pose a threat for the physical or psychological safety of the students or of the other persons present.

A notice of cancellation must be sent to the other contracting party. The cancellation takes effect on receipt of the notice. No compensation or indemnity may be claimed by the other contracting party.”

28. Section 118 of the Act is amended by inserting the following paragraph after the first paragraph:

“The Minister may also designate a person to inquire into any behaviour that could reasonably pose a threat for the students’ physical or psychological safety.”

29. Section 119 of the Act is amended by adding the following paragraph at the end:

“(8) does not use the means at his disposal to put an end to behaviour that could reasonably pose a threat for the students’ physical or psychological safety.”

30. The Act is amended by inserting the following section after section 120:

“120.1. The Minister must, before modifying or revoking the permit of a holder for the reason mentioned in paragraph 8 of section 119, order the holder to apply the corrective measures he indicates within the time limit he fixes.

If the holder does not comply with the order, the Minister may modify or revoke his permit.”

31. Section 125 of the Act is amended by adding the following sentence at the end: “The same applies if the institution does not use the means at its disposal to put an end to behaviour that could reasonably pose a threat for the students’ physical or psychological safety.”

ACT RESPECTING MUNICIPAL TAXATION

32. The Act respecting municipal taxation (chapter F-2.1) is amended by inserting the following section after section 204.0.1:

“204.0.2. On the application of the Minister of Justice or a person he designates, a judge of the Superior Court may, where an officer or director of an entity, other than a legal person established in the public interest, who owns an immovable described in section 204 is found guilty of an offence under Part II.1 or section 59 or 319 of the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46) and there are reasonable grounds to believe that resources, including human resources, of that entity were used directly or indirectly to commit the offence, order, for the period the judge determines, the loss of the benefit of the exemption provided for in section 204, for all or some of the immovables included in a unit of assessment entered on the roll in the name of the entity. A copy of the judgment shall be sent to the clerk or the secretary-treasurer of the municipality concerned.”

EDUCATION ACT

33. The Education Act (chapter I-13.3) is amended by inserting the following section after section 266:

“266.1. Any contract that allows the total or partial use of an immovable of a school board is deemed to contain a clause allowing the school board to cancel the contract if the other contracting party or any person exhibits behaviour during such use that could reasonably pose a threat for the physical or psychological safety of the students or of the other persons present.

A notice of cancellation must be sent to the other contracting party. The cancellation takes effect on receipt of the notice. No compensation or indemnity may be claimed by the other contracting party.”

34. Section 477 of the Act is amended by adding the following sentence at the end of the first paragraph: “The same applies if a school board does not use the means at its disposal to put an end to behaviour that could reasonably pose a threat for the students’ physical or psychological safety.”

35. Section 478.3 of the Act is amended

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

“The Minister may also designate a person to inquire into any behaviour that could reasonably pose a threat for the students’ physical or psychological safety.”;

(2) by replacing “so designated” in the second paragraph by “designated by the Minister”.

YOUTH PROTECTION ACT

36. Section 38 of the Youth Protection Act (chapter P-34.1) is amended by inserting “excessive control,” after “emotional rejection,” in subparagraph *c* of the second paragraph.

37. The Act is amended by inserting the following section after section 38.2:

“38.3. No ideological or other consideration, including one based on a concept of honour, can justify any situation described in sections 38 and 38.1.”

38. Section 45.1 of the Act is amended by striking out the second paragraph.

39. The Act is amended by inserting the following section after section 45.1:

“45.2. If the director decides not to accept a report but is of the opinion that the child or one or both of the child’s parents require assistance, the director must inform them of the services and resources available in their community. If they consent to it, the director must, in a personalized manner, advise them and direct them to the institutions, bodies or persons best suited to assist them and come to an agreement with the service provider on the terms of access to such service, in particular, on the time limit. In addition, if they consent to it, the director must forward the information relevant to the situation to the service provider.

Information on the services and resources available to them is given to the person requiring assistance and, in the case of a child under 14 years of age, to one or both of the child’s parents. The required consents are also given by the person requiring assistance, except those for a child under 14 years of age, which are given by one of the child’s parents.

Where the child requiring assistance is 14 years of age or older, the director may, if the child consents to it, inform one or both of the child’s parents of the

services and resources available in their community. In addition, where the child is directed to an institution, body or person in accordance with the first paragraph, the director may, if the child consents to it, inform one or both of the parents. Where the director directs the child without informing the parents, the director must meet with the child and the service provider.”

40. Section 46 of the Act is amended by inserting the following subparagraph after subparagraph *e* of the fourth paragraph:

“(e.1) prohibiting the disclosure of specific information to one or both of the parents or any other person designated by the director;”.

41. Section 50 of the Act is amended by striking out the second paragraph.

42. The Act is amended by inserting the following section after section 50:

“**50.1.** Where the director establishes that the security or development of the child is not in danger, but the director is of the opinion that the child or one or both of the child’s parents require assistance, the director is subject to the obligations set out in section 45.2.”

43. Section 57.2 of the Act is amended by striking out the second and third paragraphs.

44. The Act is amended by inserting the following section after section 57.2:

“**57.2.1.** If the director puts an end to an intervention, but is of the opinion that the child or one or both of the child’s parents require assistance, the director is subject to the obligations set out in section 45.2.

The director is also subject to those obligations when a child whose security or development is in danger reaches 18 years of age.”

45. Section 70.2 of the Act is amended by replacing “set out in the second paragraph of section 57.2” in the second paragraph by “set out in section 45.2”.

46. Section 91 of the Act is amended by inserting the following subparagraph after subparagraph *l* of the first paragraph:

“(l.1) that specific information not be disclosed to one or both of the parents or any other person designated by the tribunal;”.

ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES

47. Section 21 of the Act respecting health services and social services (chapter S-4.2) is amended by replacing the second paragraph by the following paragraphs:

“However, an institution shall refuse to give the holder of parental authority access to the record of a user under 14 years of age where the user has been the subject of an intervention within the meaning of section 2.3 of the Youth Protection Act (chapter P-34.1) or where a decision concerning him has been made under that Act, and the institution, after consulting the director of youth protection, determines that communication of the user’s record to the holder of parental authority will or could be prejudicial to the user’s health.

An institution shall also refuse to give the holder of parental authority access to the record of a user who is 14 years of age or over where, after being consulted by the institution, the user refuses to allow his record to be communicated to the holder of parental authority and the institution determines that communication of the user’s record to the holder of parental authority will or could be prejudicial to the user’s health. Where the user has been the subject of an intervention within the meaning of section 2.3 of the Youth Protection Act or where a decision concerning him has been made under that Act, the institution must first consult the director of youth protection. However, where the refusal of the user who is 14 years of age or over concerns information referred to in section 45.2, 50.1 or 57.2.1 or the second paragraph of section 70.2 of the Youth Protection Act, the holder of parental authority to whom the user has refused to allow information to be communicated may not receive the information concerned.”

TRANSITIONAL AND FINAL PROVISIONS

48. The rules governing publication of a marriage or civil union or, as applicable, dispensation from publication in force on (*insert the date of coming into force of paragraph 1 of section 6*) continue to apply to marriages and civil unions solemnized within six months after that date.

The marriage of a minor to which the holder of parental authority or the tutor, as applicable, consented before 8 June 2016 continues to be governed by article 373 of the Civil Code as it read before that date provided the marriage is solemnized within six months after that date.

49. A notice regarding an application for a change of name or a tardy declaration of filiation published before (*insert the date of coming into force of section 2*) need not be published again if the application or declaration is sent to the registrar of civil status within six months after that date.

50. This Act comes into force on 8 June 2016, except sections 1, 2, 3, paragraph 1 of section 6, and sections 8 and 11, which come into force on the date or dates to be set by the Government.