



NATIONAL ASSEMBLY

FIRST SESSION

FORTY-FIRST LEGISLATURE

Bill 115

(2017, chapter 10)

An Act to combat maltreatment of seniors and other persons of full age in vulnerable situations

Introduced 19 October 2016
Passed in principle 8 February 2017
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EXPLANATORY NOTES

The purpose of this Act is to combat maltreatment of seniors and other persons of full age in vulnerable situations by enacting measures to facilitate the reporting of maltreatment and to implement a Québec-wide framework agreement to combat maltreatment.

Institutions within the meaning of the Act respecting health services and social services are required to adopt and implement a policy to combat maltreatment of persons in vulnerable situations who receive health services and social services, whether the services are provided in a facility maintained by the institution or are in-home services, and whether maltreatment occurs at the hands of a person working for the institution or of any other person. An institution's policy also applies, with the adaptations provided for, to all intermediate and family-type resources that take in users of full age and to private seniors' residences attached to that institution, as well as to the bodies, partnerships or persons the institution calls on for the provision of services. The Government may also require any other body or resource it designates to adopt such a policy.

The local service quality and complaints commissioner of the institution is responsible for dealing with complaints and reports made within the scope of the policy to combat maltreatment of persons in vulnerable situations. Measures are also to be put in place to preserve the confidentiality of information relating to the identity of persons who report maltreatment, to protect them against reprisals and to grant them immunity from proceedings after they make such a report in good faith.

The Minister responsible for Seniors, in concert with the actors from the sectors concerned, is responsible for combatting maltreatment of seniors, in particular by ensuring the complementarity and effectiveness of the actions undertaken to prevent, identify and combat such maltreatment.

Health and social services providers and professionals within the meaning of the Professional Code are required to report certain cases of maltreatment to the local service quality and complaints commissioner of an institution or to a police force, as applicable.

The Act defines in several Acts, including those concerning professional orders and those relating to the protection of personal information, the nature of the threat of, and the notion of, “serious bodily injury” in the provisions that authorize the communication of personal information, without the consent of the person concerned, to prevent an act of violence.

Lastly, the Government may determine, by regulation, the terms governing the use, by a user or a user’s representative, of monitoring mechanisms, such as cameras or any other technological means, on premises governed by the Act respecting health services and social services.

LEGISLATION AMENDED BY THIS ACT:

- Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1);
- Tax Administration Act (chapter A-6.002);
- Act respecting the Barreau du Québec (chapter B-1);
- Professional Code (chapter C-26);
- Act respecting labour standards (chapter N-1.1);
- Notaries Act (chapter N-3);
- Act respecting the sharing of certain health information (chapter P-9.0001);
- Youth Protection Act (chapter P-34.1);
- Act respecting the protection of personal information in the private sector (chapter P-39.1);
- Act respecting health services and social services (chapter S-4.2);
- Act respecting health services and social services for Cree Native persons (chapter S-5).

Bill 115

AN ACT TO COMBAT MALTREATMENT OF SENIORS AND OTHER PERSONS OF FULL AGE IN VULNERABLE SITUATIONS

AS Québec society places value on the well-being of persons and respect for their fundamental rights;

AS, despite existing legislative and administrative measures to combat maltreatment, persons are still falling victim to it, particularly persons in vulnerable situations;

AS Québec has one of the world's populations most impacted by aging and certain seniors are in vulnerable situations;

AS maltreatment is unacceptable and the State deems it essential to intervene in order to reinforce existing measures to combat maltreatment of persons in vulnerable situations, in a manner that protects their interests and autonomy;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

OBJECTS AND DEFINITIONS

1. This Act provides measures to combat maltreatment of seniors and other persons of full age in vulnerable situations, such as requiring every institution to adopt and implement a policy to combat maltreatment of such persons, facilitating the reporting of cases of maltreatment and establishing an intervention process with respect to maltreatment of seniors and other persons of full age in vulnerable situations.

2. For the purposes of this Act,

(1) “local service quality and complaints commissioner” means a local service quality and complaints commissioner appointed under section 30 of the Act respecting health services and social services (chapter S-4.2) or the person designated by the Cree Board of Health and Social Services of James Bay established under the Act respecting health services and social services for Cree Native persons (chapter S-5);

(2) “institution” means an institution within the meaning of the Act respecting health services and social services or the Cree Board of Health and Social Services of James Bay;

(3) “maltreatment” means a single or repeated act, or a lack of appropriate action, that occurs in a relationship where there is an expectation of trust, and that intentionally or unintentionally causes harm or distress to a person;

(4) “person in a vulnerable situation” means a person of full age whose ability to request or obtain assistance is temporarily or permanently limited because of factors such as a restraint, limitation, illness, disease, injury, impairment or handicap, which may be physical, cognitive or psychological in nature;

(5) “person working for the institution” means a physician, dentist, midwife, personnel member, medical resident, trainee, volunteer or other natural person who provides services directly to a person on behalf of the institution; and

(6) “private seniors’ residence” means a private seniors’ residence within the meaning of section 346.0.1 of the Act respecting health services and social services.

CHAPTER II

ANTI-MALTREATMENT POLICY

DIVISION I

POLICY ADOPTION AND IMPLEMENTATION

3. Every institution must adopt a policy to combat maltreatment of persons in vulnerable situations who receive health services and social services, whether services provided in a facility maintained by the institution or in-home services.

The purpose of the policy is, in particular, to establish measures to prevent and combat maltreatment of such persons, whether at the hands of a person working for the institution or of any other person, and to support them in any steps taken to end it.

The president and executive director or the executive director of the institution, as applicable, or the person designated by the president and executive director or the executive director, sees to the implementation of the policy.

The policy must include

(1) the person responsible for implementing the policy and their contact information;

(2) the measures put in place to prevent maltreatment of persons in vulnerable situations who receive health services and social services, such as awareness, information and training activities;

(3) the procedure allowing such persons who believe they are victims of maltreatment to file a complaint with the local service quality and complaints commissioner;

(4) the procedure allowing any other person, including a person who does not work for the institution, to report to the local service quality and complaints commissioner any alleged case of maltreatment of a person in a vulnerable situation who receives health services and social services;

(5) the support measures available to help a person file a complaint or report of maltreatment;

(6) the measures put in place by the local service quality and complaints commissioner to preserve the confidentiality of any information that would allow the person reporting a case of maltreatment to be identified;

(7) the sanctions, in particular disciplinary sanctions, that could be applied in cases of maltreatment; and

(8) the required follow-up in response to any complaint or report of maltreatment and the time limit for carrying it out.

The time limits for processing complaints or reports concerning cases of maltreatment must vary according to the seriousness of each case.

4. The policy must specify the adaptations required, if any, when it is implemented by

(1) an intermediate or family-type resource governed by the Act respecting health services and social services or any other body, partnership or person the institution calls on for the provision of its services, in particular by an agreement under section 108 or 108.1 of the Act respecting health services and social services or section 124 of the Act respecting health services and social services for Cree Native persons; or

(2) a private seniors' residence.

DIVISION II

DISSEMINATION OF THE POLICY

5. The institution must publicly display its policy in the facilities it maintains and publish it on its website. It must also, by any other means it determines, make its policy known to users covered by the policy, including those who receive in-home services, and their close family members.

6. The person responsible for implementing the policy must inform the persons working for the institution of the policy's content and, more specifically, of the prevention measures put in place and the possibility of reporting cases of maltreatment to the local service quality and complaints commissioner.

An integrated health and social services centre established by the Act to modify the organization and governance of the health and social services network, in particular by abolishing the regional agencies (chapter O-7.2) and a local authority within the meaning of the Act respecting health services and social services must also each make its policy known to the health and social services providers working in the territory served by the centre or authority, namely, the groups of professionals, the community organizations within the meaning of section 334 of the Act respecting health services and social services, and the social economy enterprises and private resources, and to the key players in the other sectors of activity that have an impact on health services and social services.

DIVISION III

POLICY REVIEW

7. The institution must review its policy at least every five years.

DIVISION IV

IMPLEMENTATION OF POLICY BY OTHER SERVICE PROVIDERS

8. Any intermediate resource or family-type resource that receives users of full age must implement the anti-maltreatment policy of the institution that uses the resource's services. The same applies to any other body, partnership or person the institution calls on for the provision of services.

Any such resource, body, partnership or person must make its policy known to the users covered by the policy, their close family members and the persons working for the resource, body, partnership or person.

9. Any operator of a private seniors' residence must implement the anti-maltreatment policy of the integrated health and social services centre or the local authority, as applicable, in the territory where the residence is situated.

The operator must make the policy known to the residents, their close family members and the persons working for the residence.

DIVISION V

CONFIDENTIALITY, PROTECTION AGAINST REPRISAL AND IMMUNITY FROM PROCEEDINGS

10. The local service quality and complaints commissioner must take all necessary measures to preserve the confidentiality of any information that would allow a person who has reported maltreatment to be identified, unless the person consents to being identified. The commissioner may however communicate the identity of that person to the police force concerned.

11. Reprisals are prohibited against a person who, in good faith and within the scope of the policy provided for in this chapter, reports maltreatment or cooperates in the examination of a report or complaint of maltreatment, as are threats of reprisal against a person to dissuade them from reporting maltreatment or cooperating in the examination of a report or complaint made within the scope of the policy provided for in this chapter.

The demotion, suspension, termination of employment or transfer of a person working for the institution or any disciplinary or other measure that adversely affects the employment or working conditions of such a person is presumed to be a reprisal. Transferring a user or resident, breaking their lease, or prohibiting or restricting visits to users or residents is also presumed to be a reprisal.

12. No proceedings may be brought against a person who, in good faith, has reported maltreatment or cooperated in the examination of a report, whatever the conclusions issued following its examination.

DIVISION VI

ADOPTION OF A POLICY BY OTHER BODIES OR RESOURCES

13. The Government may, by regulation, require any body, resource or category of bodies or resources it designates to adopt a policy to combat maltreatment of persons in vulnerable situations and, in such a case, specify the necessary adaptations.

DIVISION VII

REPORTING

14. The local service quality and complaints commissioner must, in the activities summary the commissioner submits to the institution, include a section dealing specifically with complaints and reports the commissioner has received concerning cases of maltreatment of persons in vulnerable situations, without compromising the confidentiality of maltreatment records, including the identity of the persons concerned by a complaint or report of maltreatment.

15. The Minister of Health and Social Services reports annually on the application of this chapter in a report the Minister tables in the National Assembly within four months of the end of the fiscal year or, if the Assembly is not sitting, within 15 days of resumption. The report is also published on the website of the Minister's department.

CHAPTER III

QUÉBEC-WIDE FRAMEWORK AGREEMENT TO COMBAT MALTREATMENT

16. The Minister responsible for Seniors, in concert with the actors from the sectors concerned, is responsible for combatting maltreatment of seniors, in particular by ensuring the complementarity and effectiveness of actions undertaken to prevent, identify and combat such maltreatment.

17. The Minister enters into a Québec-wide framework agreement concerning maltreatment of seniors with the Minister of Public Security, the Minister of Justice, the Minister of Health and Social Services, the Director of Criminal and Penal Prosecutions, the Autorité des marchés financiers, the Commission des droits de la personne et des droits de la jeunesse, the Public Curator and any other department or body considered useful.

The framework agreement must, among other things, stipulate the parties' obligation to make sure an intervention process is established in each region that takes into account the different regional realities.

The framework agreement must also provide that it may be applied, with the necessary adaptations, to any person of full age in a vulnerable situation.

18. Any person who has reasonable cause to believe that a person concerned by an intervention process is a victim of maltreatment may report the case to any of the persons authorized to receive such reports under the intervention process.

19. Sections 10 to 12 apply, with the necessary modifications, to persons who, under this chapter, report maltreatment, receive a report of maltreatment or cooperate in the examination of such a report.

20. The Minister responsible for Seniors reports annually on the application of this chapter in a report the Minister tables in the National Assembly within four months of the end of the fiscal year or, if the Assembly is not sitting, within 15 days of resumption. The report is also published on the website of the Minister's department.

CHAPTER IV

OBLIGATION TO REPORT CERTAIN CASES OF MALTREATMENT

21. Any health services and social services provider or any professional within the meaning of the Professional Code (chapter C-26) who has reasonable grounds to believe that a person of full age is a victim of a single or repeated act, or a lack of appropriate action, that seriously undermines the physical or psychological integrity of the person must report it immediately if

(1) the person is lodged in a facility maintained by an institution operating a residential and long-term care centre within the meaning of the Act respecting health services and social services; or

(2) the person is under tutorship or curatorship, or is a person for whom a protection mandate has been homologated.

The report is filed with the local service quality and complaints commissioner of the institution where the person receives services, if applicable, or, in any other case, with a police force, to be handled in accordance with Chapter II or Chapter III, as applicable.

This section even applies to persons bound by professional secrecy, except lawyers and notaries who receive information about such a case in the exercise of their profession.

22. The Government may, by regulation, determine that the obligation to report maltreatment provided for in section 21 applies in the case of other persons receiving health services and social services.

CHAPTER V

AMENDING PROVISIONS

ACT RESPECTING ACCESS TO DOCUMENTS HELD BY PUBLIC BODIES AND THE PROTECTION OF PERSONAL INFORMATION

23. Section 59.1 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1) is amended

(1) by replacing “an imminent danger of death or serious bodily injury to a person or an identifiable group of persons” in the first paragraph by “a serious risk of death or serious bodily injury threatening a person or an identifiable group of persons and where the nature of the threat generates a sense of urgency”;

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

“For the purposes of the first paragraph, “serious bodily injury” means any physical or psychological injury that is significantly detrimental to the physical integrity or the health or well-being of a person or an identifiable group of persons.”

TAX ADMINISTRATION ACT

24. Section 69.0.0.11 of the Tax Administration Act (chapter A-6.002) is amended

(1) by replacing “imminent danger of death or serious bodily injury to a person or identifiable group of persons or where there is an emergency situation that threatens their lives, health or safety” in the first paragraph by “a serious risk of death or serious bodily injury threatening a person or an identifiable group of persons and where the nature of the threat generates a sense of urgency”;

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

“For the purposes of the first paragraph, “serious bodily injury” means any physical or psychological injury that is significantly detrimental to the physical integrity or the health or well-being of a person or an identifiable group of persons.”

ACT RESPECTING THE BARREAU DU QUÉBEC

25. Section 131 of the Act respecting the Barreau du Québec (chapter B-1) is amended

(1) by replacing “an imminent danger of death or serious bodily injury to a person or an identifiable group of persons” in subsection 3 by “a serious risk of death or serious bodily injury threatening a person or an identifiable group of persons and where the nature of the threat generates a sense of urgency”;

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

“(4) For the purposes of subsection 3, “serious bodily injury” means any physical or psychological injury that is significantly detrimental to the physical integrity or the health or well-being of a person or an identifiable group of persons.”

PROFESSIONAL CODE

26. Section 60.4 of the Professional Code (chapter C-26) is amended

(1) by replacing “an imminent danger of death or serious bodily injury to a person or an identifiable group of persons” in the third paragraph by “a serious

risk of death or serious bodily injury threatening a person or an identifiable group of persons and where the nature of the threat generates a sense of urgency”;

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

“For the purposes of the third paragraph, “serious bodily injury” means any physical or psychological injury that is significantly detrimental to the physical integrity or the health or well-being of a person or an identifiable group of persons.”

ACT RESPECTING LABOUR STANDARDS

27. Section 3.1 of the Act respecting labour standards (chapter N-1.1), amended by section 43 of the Act to facilitate the disclosure of wrongdoings relating to public bodies (2016, chapter 34), is again amended by replacing “, 10 and 11” in the second paragraph by “and 10 to 12”.

28. Section 122 of the Act, amended by section 44 of the Act to facilitate the disclosure of wrongdoings relating to public bodies, is again amended by adding the following subparagraph at the end of the first paragraph:

“(12) on the ground of a report of maltreatment made by an employee or of the employee’s cooperation in the examination of a report or complaint of maltreatment under the Act to combat maltreatment of seniors and other persons of full age in vulnerable situations (2017, chapter 10).”

NOTARIES ACT

29. Section 14.1 of the Notaries Act (chapter N-3) is amended

(1) by replacing “an imminent danger of death or serious bodily injury to a person or an identifiable group of persons” in the third paragraph by “a serious risk of death or serious bodily injury threatening a person or an identifiable group of persons and where the nature of the threat generates a sense of urgency”;

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

“For the purposes of the third paragraph, “serious bodily injury” means any physical or psychological injury that is significantly detrimental to the physical integrity or the health or well-being of a person or an identifiable group of persons.”

ACT RESPECTING THE SHARING OF CERTAIN HEALTH INFORMATION

30. Section 102 of the Act respecting the sharing of certain health information (chapter P-9.0001) is amended

(1) by replacing “an imminent danger of death or serious bodily injury to a person or an identifiable group of persons” in the first paragraph by “a serious risk of death or serious bodily injury threatening a person or an identifiable group of persons and where the nature of the threat generates a sense of urgency”;

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

“For the purposes of the first paragraph, “serious bodily injury” means any physical or psychological injury that is significantly detrimental to the physical integrity or the health or well-being of a person or an identifiable group of persons.”

YOUTH PROTECTION ACT

31. Section 72.8 of the Youth Protection Act (chapter P-34.1) is amended

(1) by replacing “an imminent danger of death or serious bodily injury to a person or an identifiable group of persons” in the first paragraph by “a serious risk of death or serious bodily injury threatening a person or an identifiable group of persons and where the nature of the threat generates a sense of urgency”;

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

“For the purposes of the first paragraph, “serious bodily injury” means any physical or psychological injury that is significantly detrimental to the physical integrity or the health or well-being of a person or an identifiable group of persons.”

ACT RESPECTING THE PROTECTION OF PERSONAL INFORMATION IN THE PRIVATE SECTOR

32. Section 18.1 of the Act respecting the protection of personal information in the private sector (chapter P-39.1) is amended

(1) by replacing “an imminent danger of death or serious bodily injury to a person or an identifiable group of persons” in the first paragraph by “a serious risk of death or serious bodily injury threatening a person or an identifiable group of persons and where the nature of the threat generates a sense of urgency”;

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

“For the purposes of the first paragraph, “serious bodily injury” means any physical or psychological injury that is significantly detrimental to the physical integrity or the health or well-being of a person or an identifiable group of persons.”

ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES

33. Section 19.0.1 of the Act respecting health services and social services (chapter S-4.2) is amended

(1) by replacing “an imminent danger of death or serious bodily injury to the user, another person or an identifiable group of persons” in the first paragraph by “a serious risk of death or serious bodily injury threatening the user, another person or an identifiable group of persons and where the nature of the threat generates a sense of urgency”;

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

“For the purposes of the first paragraph, “serious bodily injury” means any physical or psychological injury that is significantly detrimental to the physical integrity or the health or well-being of a person or an identifiable group of persons.”

34. Section 33 of the Act is amended by adding the following paragraph at the end:

“The local service quality and complaints commissioner is also answerable for the handling of reports of maltreatment made within the scope of the anti-maltreatment policy adopted under the Act to combat maltreatment of seniors and other persons of full age in vulnerable situations (2017, chapter 10) and, if the report of maltreatment must be handled by another authority, for directing the persons making the report to that authority.”

35. Section 505 of the Act is amended by adding the following at the end:

“(30) determine the terms governing the use, by a user and his representative described in section 12, of monitoring mechanisms, such as cameras or any other technological means, in the facilities maintained by an institution and in intermediate resources, family-type resources, private seniors’ residences or any other premises it determines, in connection with the provision of health services and social services.

A regulation under paragraph 30 that enacts measures mainly applicable to seniors is made on the joint recommendation of the Minister of Health and Social Services and the Minister responsible for Seniors.”

ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES FOR CREE NATIVE PERSONS

36. Section 7 of the Act respecting health services and social services for Cree Native persons (chapter S-5) is amended

(1) by replacing “an imminent danger of death or serious bodily injury to the beneficiary, another person or an identifiable group of persons” in the second paragraph by “a serious risk of death or serious bodily injury threatening the beneficiary, another person or an identifiable group of persons and where the nature of the threat generates a sense of urgency”;

(2) by adding the following paragraph after the second paragraph:

“For the purposes of the second paragraph, “serious bodily injury” means any physical or psychological injury that is significantly detrimental to the physical integrity or the health or well-being of a person or an identifiable group of persons.”

37. Section 18 of the Act is amended by adding the following paragraph at the end:

“The regional council is also responsible for the handling of reports of maltreatment made within the scope of the anti-maltreatment policy adopted under the Act to combat maltreatment of seniors and other persons of full age in vulnerable situations (2017, chapter 10) and, if the report of maltreatment must be handled by another authority, for directing the persons making the report to that authority.”

CHAPTER VI

MISCELLANEOUS, TRANSITIONAL AND FINAL PROVISIONS

38. Every institution must adopt its anti-maltreatment policy, described in section 3, not later than 30 November 2018.

39. Despite section 7, the first review of the policy to combat maltreatment of persons in vulnerable situations who receive health services and social services must be carried out not later than 30 May 2020.

40. The Minister responsible for Seniors is responsible for the administration of this Act, except Chapter II and section 38, which are under the responsibility of the Minister of Health and Social Services.

41. This Act comes into force on 30 May 2017.