



NATIONAL ASSEMBLY

FIRST SESSION

FORTY-FIRST LEGISLATURE

Bill 143
(2017, chapter 31)

**An Act to improve the educational
quality and foster the harmonious
development of educational childcare
services**

**Introduced 16 June 2017
Passed in principle 1 November 2017
Passed 8 December 2017
Assented to 8 December 2017**

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EXPLANATORY NOTES

This Act amends the Educational Childcare Act to introduce new provisions respecting mainly the quality of educational childcare service delivery and the safety and development of these services.

The Act adds promoting educational success to the objects of the Educational Childcare Act and adds the obligation to foster educational success, in particular to facilitate children's transition into the school system, to the educational program applied by childcare providers. The Act also establishes a process for assessing and improving childcare service quality.

Furthermore, the Act formally obliges childcare providers to ensure the health, safety and well-being of the children to whom they provide childcare. The use of measures that could be detrimental to children is expressly forbidden.

The number of children that a natural person without a permit or recognition under the law may provide with childcare is reduced. Day care centre permit issuing is made subject to additional requirements and, in certain cases, the Minister must consult an educational childcare service supply advisory committee, whose composition and functions are determined by the Act.

In addition, all childcare providers are required to use the single-window access to childcare services designated by the Minister. The Act provides for sending new information to the Minister to identify the clientele and assess children's anticipated and actual attendance.

Lastly, new administrative penalties and penal sanctions are introduced.

LEGISLATION AMENDED BY THIS ACT:

- Educational Childcare Act (chapter S-4.1.1).

REGULATION AMENDED BY THIS ACT:

- Educational Childcare Regulation (chapter S-4.1.1, r. 2).

Bill 143

AN ACT TO IMPROVE THE EDUCATIONAL QUALITY AND FOSTER THE HARMONIOUS DEVELOPMENT OF EDUCATIONAL CHILDCARE SERVICES

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

EDUCATIONAL CHILDCARE ACT

1. Section 1 of the Educational Childcare Act (chapter S-4.1.1) is amended by inserting “, educational success” after “development” in the first paragraph.

2. Section 5 of the Act is amended

(1) by adding the following subparagraph at the end of the first paragraph:

“(3) fostering children’s educational success, particularly by facilitating their transition into the school system.”;

(2) by replacing the third paragraph by the following paragraph:

“The Government determines, by regulation, any other element or service to be included in the educational program. It may, in the same way, prescribe a single program applicable in whole or in part to the childcare providers it determines and provide for program equivalencies.”

3. The Act is amended by inserting the following sections after section 5:

5.1. Childcare providers must, at the Minister’s request and in the manner determined by the Minister, participate in the process to assess and improve the educational quality of childcare.

The Minister determines the measurement tools to be used in this process and may require childcare providers and their participating staff to provide the Minister with the information and documents required and to complete a questionnaire assessing childcare quality.

The Minister may designate a person or body with the required expertise in the field of early childhood to develop measurement tools and collect and process the information, documents and questionnaire.

The Minister follows up on the results of the childcare educational quality assessment and improvement process with the childcare providers concerned.

“5.2. Childcare providers must ensure the health, safety and well-being of the children to whom they provide childcare.

Among other things, childcare providers may not apply degrading or abusive measures, use exaggerated punishment, denigration or threats, or employ abusive or disparaging language that could humiliate or frighten a child or undermine the child’s dignity or self-esteem. Nor may they tolerate such behaviour from their employees.”

4. Section 6 of the Act is amended by replacing “to more than six children” by “to a child in return for a parental contribution”.

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

“6.1. Section 6 does not apply to a natural person who

(1) is an own-account worker;

(2) provides childcare in a private residence where such childcare is not already being provided;

(3) provides childcare to up to six children of whom not more than two are under the age of 18 months, including the person’s own children under nine years of age and any other children under nine who ordinarily live with the person and are present while the childcare is provided;

(4) holds an attestation issued by a police force or the Minister for himself or herself and for each person of full age living in the residence, establishing that none of them has an impediment under paragraph 2 or 3 of section 26;

(5) holds a certificate attesting that he or she has successfully completed a first aid course determined by government regulation;

(6) is covered by a civil liability insurance policy whose amount and coverage are determined by government regulation;

(7) notifies the parent using his or her services in writing that, as regards childcare services, he or she is subject only to the conditions provided for in this section, that he or she offers unrecognized home childcare, that he or she is not subject to monitoring by a home childcare coordinating office and that the quality of his or her childcare service is not assessed by the Minister; and

(8) has not been convicted of an offence under section 6.2, or more than two years have elapsed since the conviction.

For the purposes of subparagraph 4 of the first paragraph, the Government determines, by regulation, the terms and conditions a person must fulfil to obtain an attestation establishing that no impediment exists.

The notice provided for in subparagraph 7 of the first paragraph, in the form prescribed by the Minister, must be signed by the parent and kept by the person offering the childcare for as long as the child receives the services. The notice must also contain any other element provided for by government regulation.

“6.2. The person referred to in section 6.1 may not apply degrading or abusive measures, use exaggerated punishment, denigration or threats, or employ abusive or disparaging language that could humiliate or frighten a child to whom he or she provides childcare or undermine the child’s dignity or self-esteem.”

6. Section 11 of the Act is amended

(1) by inserting the following subparagraph after subparagraph 1.1 of the first paragraph:

“(1.2) the person shows the feasibility, relevance and quality of his or her project to the Minister’s satisfaction;”;

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

“A permit applicant is deemed to meet the condition set out in subparagraph 1.2 of the first paragraph if the Minister, in allocating new subsidized childcare spaces under section 93, granted the applicant such spaces on the recommendation of the advisory committee concerned. The same is true of a permit applicant who acquires the assets of a permit holder, provided the applicant continues to provide childcare in accordance with the same conditions as those stated on the permit holder’s permit under paragraphs 2 and 3 of section 12.”

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

“11.1. In assessing the criteria set out in subparagraph 1.2 of the first paragraph of section 11, the Minister consults the advisory committee concerned established under section 103.5 and considers, in particular,

(1) as regards feasibility: the applicant’s ability to complete his or her project according to realistic funding and deadlines;

(2) as regards relevance: whether the project meets the childcare service needs and priorities for developing such services in the territory where the applicant wishes to set up operations; and

(3) as regards quality: the correlation between the childcare services offered and the means used to carry out the project, the choice of the facility’s location and the means implemented to ensure sound, efficient management of the day care centre’s human, material, financial and information resources.

If the application concerns a Native community, the Minister consults that community only.

11.2. The Minister assesses the childcare service needs and priorities for developing such services for every territory the Minister determines, considering, among other factors, the day care centre permits already issued, the permit applications and other applications for authorization under section 21.1 awaiting a decision and how well childcare service needs are already being met.

The Minister provides the permit applicant with the necessary information on the childcare service needs and priorities for developing such services in the territory where the applicant wishes to set up operations.”

8. The Act is amended by inserting the following section after section 21:

21.1. A day care centre permit holder must obtain the Minister’s written authorization before increasing the number of children beyond the maximum stated on the permit.

The same is true if the permit holder wishes to permanently relocate his or her facility to offer childcare services in another territory.

The Minister grants the authorization if the Minister judges that the change requested meets the criteria set out in subparagraph 1.2 of the first paragraph of section 11, taking section 11.1 into account.”

9. Section 24 of the Act is amended by adding the following paragraph at the end:

“However, the requirement of subparagraph 1.2 of the first paragraph of section 11 does not apply to the modification or renewal of a day care centre permit, except in the cases provided for in section 21.1.”

10. Section 28 of the Act is amended by replacing paragraph 5 by the following paragraph:

“(5) the permit holder contravenes section 5.2;”.

11. The Act is amended by inserting the following section after section 57:

57.1. Childcare providers must keep an education record for each child to whom they provide childcare.

Among other things, education records include information concerning the child’s development, information allowing better early detection of any difficulties the child may encounter and information facilitating the child’s transition into the school system.

No information contained in the record may be communicated to a third party without the consent of the parent of the child concerned, except in the case of an inspector authorized under section 72. The record is given to the parent when the childcare services are no longer required.

The Government determines, by regulation, the elements comprising the education record, the medium to be used and the standards for keeping, using, storing, reproducing and communicating the information it contains.”

12. The Act is amended by inserting the following chapter after section 59:

“CHAPTER IV.1

“SINGLE-WINDOW ACCESS TO CHILDCARE SERVICES

“59.1. All childcare providers, other than those established on Aboriginal territory, must register with the single-window access to childcare services designated by the Minister, according to the terms and conditions determined by the Minister.

“59.2. Childcare providers must use only the registrations entered in the single-window access to childcare services to fill their childcare service supply.”

13. Section 93 of the Act is amended by replacing “101.1” in the second paragraph by “103.5”.

14. Section 94 of the Act is amended by replacing “101.1” in the first paragraph by “103.5”.

15. Section 94.2 of the Act is amended by replacing “101.1” by “103.5”.

16. Division III of Chapter VII of the Act, comprising sections 101.1 and 101.2, is repealed.

17. Section 101.3 of the Act is amended by replacing “any of sections 13, 14, 16 and 20” in the second paragraph by “the first paragraph of section 5.1 or any of sections 13, 14, 16, 20, 59.1, 59.2 and 102”.

18. Section 102 of the Act is amended

(1) by inserting “to identify its clientele, assess anticipated attendance, assess actual attendance by the children receiving childcare, or manage childcare service supply and demand or” after “whether” in the first paragraph;

(2) by replacing “functions or administer” in the second paragraph by “functions related to identifying its clientele, assessing anticipated attendance, assessing actual attendance by the children receiving childcare, managing childcare service supply and demand or to administer”;

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

“The information requested by the Minister under this section must be sent to the Minister within the time and in the manner determined by the Minister, in particular by Internet, using the computer system and software determined by the Minister.”

19. The Act is amended by inserting the following chapter after section 103.4:

“CHAPTER VIII.2

**“EDUCATIONAL CHILDCARE SERVICE SUPPLY ADVISORY
COMMITTEE**

“DIVISION I

“ESTABLISHMENT AND FUNCTIONS

“103.5. The Minister establishes an advisory committee for every territory the Minister determines.

The functions of each committee are

(1) to advise the Minister on assessing all day care centre project permit applications based on the criteria of feasibility, relevance and quality in accordance with section 11.1;

(2) to advise the Minister on all applications by day care centre permit holders to increase the maximum number of children stated on their permit or to permanently relocate their facility to offer services in another territory in accordance with the third paragraph of section 21.1;

(3) to advise the Minister on needs and priorities with respect to the allocation of new subsidized childcare spaces and to analyze all projects submitted and make recommendations to the Minister on the allocation of new spaces under section 93; and

(4) to advise the Minister when the Minister re-allocates spaces under section 94.

The Minister makes public the recommendations under subparagraphs 1 and 2 of the second paragraph made by the advisory committee concerned.

“DIVISION II**“COMPOSITION AND ORGANIZATION**

“103.6. Each committee is composed of nine members, as follows:

(1) one person designated by the regional county municipalities of the territory concerned;

(2) one person designated by the integrated health and social services centres of the territory concerned;

(3) one person designated by the school boards of the territory concerned;

(4) one person designated by the body most representative of the childcare centres of the territory concerned;

(5) one person designated by the body most representative of the day care centres of the territory concerned which provide subsidized childcare;

(6) one person designated by the body most representative of the day care centres of the territory concerned which do not provide subsidized childcare;

(7) one person designated by the body most representative of the home childcare coordinating offices of the territory concerned;

(8) one person designated by a regional economic development agency of the territory concerned; and

(9) one person designated by a community organization with a family-related mandate designated by the Minister.

For the purposes of subparagraph 1 of the first paragraph, a local municipality whose territory is not included in that of a regional county municipality is considered a regional county municipality. The same is true of a responsible body referred to in section 21.5 of the Act respecting the Ministère des Affaires municipales, des Régions et de l'Occupation du territoire (chapter M-22.1), as regards the territory or community it represents.

The persons designated under subparagraphs 1 to 6, 8 and 9 of the first paragraph must work or reside in the territory of the advisory committee concerned.

The Minister may also ask other bodies to designate other committee members, for instance, if a person referred to in the first paragraph cannot be designated.

“103.7. Members are designated for a non-renewable five-year term.

When their term expires, members remain in office until replaced.

“103.8. The dates of each committee’s meetings are determined by the Minister.

“103.9. Advisory committee members may not be prosecuted for acts performed in good faith in exercising their committee functions.”

20. Section 106 of the Act is amended, in the first paragraph,

(1) by inserting the following subparagraph after subparagraph 14:

“(14.1) determine the elements comprising the education records of the children to whom the childcare provider provides childcare, the medium to be used and the standards for keeping, using, storing, reproducing and communicating the information the records contain;”;

(2) by replacing “or to a childcare provider” in subparagraph 18 by “, to a childcare provider or to the person referred to in section 6.1”;

(3) by inserting the following subparagraph after subparagraph 18:

“(18.1) determine the terms and conditions the person referred to in section 6.1 must fulfil to obtain an attestation from a police force or the Minister establishing that no impediment exists;”;

(4) by inserting the following subparagraphs after subparagraph 29:

“(29.1) determine the other elements and services all educational programs must include;

“(29.2) establish a single educational program and determine which childcare providers are required to apply it in whole or in part;

“(29.3) determine equivalencies for the single educational program;

“(29.4) determine the amount of insurance and insurance coverage the person referred to in section 6.1 must have;

“(29.5) determine the first aid course the person referred to in section 6.1 must take, its content and duration and how it is to be updated;

“(29.6) determine the elements to be included in the notice the person referred to in section 6.1 must give the parent;

“(29.7) determine the documents and information the person referred to in section 6.1 must give the parents of the children to whom he or she provides childcare;”.

21. Section 107 of the Act is amended by striking out paragraph 1.

22. The Act is amended by inserting the following sections after section 113:

“113.1. A childcare provider or an accredited home childcare coordinating office that refuses or fails to send the information requested by the Minister under section 102, within the time and in the manner determined by the Minister, is guilty of an offence and is liable to a fine of \$500 to \$5,000.

“113.2. A childcare provider that contravenes section 5.2 is guilty of an offence and is liable to a fine of \$5,000 to \$75,000.

“113.3. A childcare provider that contravenes the first or third paragraph of section 57.1 is guilty of an offence and is liable to a fine of \$500 to \$5,000.

“113.4. The person referred to in section 6.1 that contravenes a provision of section 6.2 is guilty of an offence and is liable to a fine of \$5,000 to \$75,000.”

23. Section 116 of the Act is amended by replacing “86 or 95” by “59.1, 59.2, 86 or 95”.

EDUCATIONAL CHILDCARE REGULATION

24. The Educational Childcare Regulation (chapter S-4.1.1, r. 2) is amended by inserting the following chapter after section 6:

“CHAPTER I.1

“UNRECOGNIZED HOME CHILDCARE

“DIVISION I

“INVESTIGATION ESTABLISHING THAT NO IMPEDIMENT EXISTS

“6.1. The person referred to in section 6.1 of the Act must have an investigation establishing that no impediment exists carried out in respect of himself or herself and every person of full age residing in the private residence where the childcare is provided.

He or she must, for each person, provide the police force with a copy of the consent to investigation of all of the information provided for in the second paragraph of section 27 of the Act that may establish an impediment.

“6.2. For every person referred to in the first paragraph of section 6.1, the police force must issue an attestation establishing that no impediment exists or, where applicable, an attestation of information that may establish an impediment. In the latter case, the person may then decide not to offer childcare services or provide the attestation to the Minister for the Minister’s assessment.

The police force must notify the Minister in writing when it issues an attestation of information that may establish an impediment.

“6.3. On request, the Minister assesses the attestation of information that may establish an impediment provided by the person referred to in section 6.1 of the Act. If the Minister concludes that the content of the attestation is not related to the abilities and conduct required for home childcare or that it will not impede the carrying out of the person’s responsibilities or constitute a moral or physical danger for the children to whom the person proposes to provide childcare, an attestation establishing that no impediment exists is issued to the person. Otherwise, the Minister notifies the person in writing that he or she does not have the capacity to provide childcare.

“6.4. The person must keep the consent to investigation and the attestation establishing that no impediment exists and provide parents with a copy of the attestation issued.

“6.5. The person must ensure that he or she obtains a new attestation if

- (1) the last attestation dates back 3 years or more;
- (2) the information it contains has changed; or
- (3) the Minister, on being made aware the information it contains has changed, requires a new attestation.

Sections 6.1 to 6.3 apply, with the necessary modifications, to the obtaining of the new attestation referred to in the first paragraph.

“DIVISION II

“FIRST AID COURSE

“6.6. The person referred to in section 6.1 of the Act must hold a certificate not older than 3 years attesting that the person has successfully completed a minimum 8-hour early childhood first aid course including a component on the management of severe allergic reactions or a minimum 6-hour refresher course updating the knowledge acquired as part of the early childhood first aid course.

The person must provide parents with a copy of the certificate.

“DIVISION III

“CIVIL LIABILITY INSURANCE

“6.7. The person referred to in section 6.1 of the Act must be covered by a civil liability insurance policy for an amount of at least \$1,000,000 per claim with coverage extending to the person’s activities as a childcare provider.

The person must provide parents with a copy of his or her proof of insurance.

“DIVISION IV**“NOTICE TO PARENTS**

“6.8. The person referred to in section 6.1 of the Act must provide parents with the notice required under that section. In addition to the particulars required under subparagraph 7 of the first paragraph of that section, the notice must include the following information:

- (1) the surname, given name, address and telephone number of the person providing the childcare services;
- (2) the parent’s surname, given name, address and telephone number;
- (3) the child’s surname, given name and address if it differs from the parent’s address;
- (4) that a copy of the notice must be kept in the residence where the childcare services are provided for as long as the services are provided to the child there; and
- (5) that the person is subject to the provisions of section 6.2 of the Act.”

25. Section 10 of the Regulation is amended by inserting the following paragraph after paragraph 10:

“(10.1) the implementation schedule, implementation budget, funding, and means implemented to ensure sound, effective management of human, material, financial and information resources;”.

26. Section 16.1 of the Regulation is amended by replacing “18 and 21” in the first paragraph by “18, 21 and 21.1”.

27. Section 75 of the Regulation is amended by inserting “5.2,” after “sections” in paragraph 1.

TRANSITIONAL AND FINAL PROVISIONS

28. A natural person who, on 1 May 2018, provides childcare services to up to six children has until 1 September 2019 to comply with section 6 of the Educational Childcare Act (chapter S-4.1.1), as amended by section 4, or with section 6.1, enacted by section 5.

A legal person who, on 1 May 2018, provides childcare services to up to six children has until 1 September 2019 to comply with section 6 of the Educational Childcare Act, as amended by section 4.

29. Not later than 8 June 2019, the Government must make a first regulation regarding the other elements and services to be included in the educational program and education record under the third paragraph of section 5 of the Educational Childcare Act, enacted by section 2, and the fourth paragraph of section 57.1, enacted by section 11, respectively.

30. Any day care centre permit application filed before 16 June 2017 that is still pending on 31 December 2017 continues to be subject to section 11 of the Educational Childcare Act as it read before the latter date, provided the application is completed before 31 March 2018.

31. Any day care centre permit application filed on or after 16 June 2017 that is still pending on 31 December 2017 remains active and is decided on in accordance with the provisions of the Educational Childcare Act as they read on or after the latter date.

32. A home childcare provider who, on 8 December 2017, has not registered with the single-window access to childcare services provided for in section 59.1 of the Educational Childcare Act, enacted by section 12, has until 1 September 2018 to comply with sections 59.1 and 59.2, enacted by section 12.

33. A day care centre permit holder who has no subsidized childcare spaces under section 93 of the Educational Childcare Act and who, on 8 December 2017, has not registered with the single-window access to childcare services provided for in section 59.1 of the Educational Childcare Act, enacted by section 12, has until 1 September 2018 to comply with sections 59.1 and 59.2, enacted by section 12.

34. The provisions of this Act come into force on 8 December 2017, except

(1) sections 4 and 5, paragraph 2, paragraph 3 and paragraph 4, to the extent that it enacts subparagraphs 29.4 to 29.7 of the first paragraph of section 106 of the Educational Childcare Act, of section 20, section 22, to the extent that it enacts section 113.4 of that Act, and section 24, which come into force on 1 May 2018;

(2) sections 6 to 9, 13 to 16, 19, 25 and 26, which come into force on 31 December 2017.