

Draft Regulations

Draft Regulation

Code of Civil Procedure
(chapter C-25.01)

Superior Court of Québec in family matters — Amendment

Notice is hereby given, in accordance with article 64 of the Code of Civil Procedure (chapter C-25.01), that the Chief Justice of the Superior Court of Québec publishes the Regulation to amend the Regulation of the Superior Court of Québec in family matters appearing below. The draft Regulation will be adopted upon the expiry of 45 days following this publication.

Any person wishing to comment on the matter is requested to submit written comments within the 45-day period to Mtre. Bruno Guillot-Hurtubise, Director, Service de recherche, Superior Court in Montréal, 1, rue Notre-Dame Est, Bureau 12.12, Montréal (Québec), H2Y 1B6; email: bruno.guillot-hurtubise@judex.qc.ca

*The Honourable JACQUES R. FOURNIER,
Chief Justice of the Superior Court*

Regulation to amend the Regulation of the Superior Court of Québec in family matters

Code of Civil Procedure
(chapter C-25.01, art. 63)

1. The Regulation of the Superior Court of Québec in family matters (chapter C-25.01, r. 0.2.4) is amended by replacing “AND FILIATION” in the heading of Chapter III by “, FILIATION AND OTHER FAMILY MATTERS”.

2. Section 16 is replaced by the following:

“**16. Mandatory information:** In all pending cases, the parties must attest to whether or not they are subject to conditions regarding another party or their child under an order, undertaking or recognizance provided for in the Criminal Code. Any party subject to such conditions must provide the particulars in a notice filed with the court office and provide evidence of said conditions; the same applies if those conditions are replaced, varied or lifted in the course of proceedings.

When parties apply for custody of a child or tutorship to a child, they must attest to whether or not they are the object of a court decision, a case pending before a court or an agreement with the Director of Youth Protection and, if such is the case, give the particulars of such decision, pending case or agreement.”.

3. Section 17 is replaced by the following:

“**17. Documents attesting to birth:** In any matter, a photocopy of the birth certificate, of the copy of the act of birth or of any other document issued by a competent foreign authority attesting the birth of the parties and children concerned by the application must be provided as evidence.

Where an application concerns the filiation of a child, the original of the child’s birth certificate, of the copy of the child’s act of birth or of any other document issued by a competent foreign authority attesting the child’s birth must be provided as evidence.”.

4. Section 19 is revoked.

5. Section 30 is amended by replacing “the Superior Court of Québec” by “an institution governed by the Act respecting health services and social services (chapter S-4.2)”.

6. Section 31 is amended by replacing “Service d’expertise psychosociale attached to the Superior Court” in the first paragraph by “Service d’expertise psychosociale”.

7. Section 34 is amended

(1) by replacing “if applicable, issue an order” by “on the same form, issue an order”;

(2) by striking out “, using Form VI” at the end.

8. Form I is amended by

(1) replacing “copy of her birth certificate” in paragraph 1 by “photocopy of her birth certificate, of the copy of her act of birth or of the document issued by a competent foreign authority” and “copy of his birth certificate” in paragraph 2 by “photocopy of his birth certificate, of the copy of his act of birth, or of the document issued by a competent foreign authority”;

(2) replacing “the copy of their marriage certificate numbered” by “the marriage certificate or the copy of the act of marriage numbered”;

(3) replacing “The copies of the birth certificates of each child dealt with in the application are Exhibit P-5 (optional).” in paragraph 6 by “The photocopies of the birth certificate, of the copy of the act of birth or of the document issued by a competent foreign authority attesting the birth of each child concerned by the application are numbered Exhibit P-5.”.

9. Form II is revoked.

10. Form IV is replaced by the form in Schedule I.

11. Form V is replaced by the form in Schedule II.

12. Form VI is revoked.

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

SCHEDULE I
(section 10)

FORM IV

CANADA
PROVINCE OF QUÉBEC
District: _____
File No. _____

SUPERIOR COURT
Family Division

Plaintiff
v.

Defendant

CONSENT TO PSYCHOSOCIAL EVALUATION AND CONSULTATION OF RECORDS

We, the undersigned, hereby consent to an evaluation by an expert of the Service d'expertise psychosociale of an institution governed by the Act respecting health services and social services (CQLR, c. S-4.2) with respect to our minor child(ren):

(given name and surname of the child) _____
(given name and surname of the child)

(given name and surname of the child) _____
(given name and surname of the child)

We consent to cooperate with the holding of interviews with each one of us and our child(ren), as well as with other members of our respective families, if required by the expert.

We consent that the expert may consult and obtain a copy of the Court file, including medical reports and files kept under seal in accordance with section 16 of the Regulation of the Superior Court of Québec in civil matters (CQLR, c. C-25.01, r. 0.2.1).

We also consent that the expert may communicate with the persons, professionals or institutions hereinafter named and, if need be, obtain a copy of all the files necessary and relevant to the preparation of his or her report:

Lastly, we understand that the expert's report will be deposited under seal in the Court file, subject to our right to examine the expert and introduce any additional evidence.

AND WE HAVE SIGNED IN _____, on _____

Counsel for the plaintiff _____
Plaintiff

Counsel for the defendant _____
Defendant

CONSENT OF THE MINOR CHILD(REN) OF 14 YEARS OF AGE OR OLDER

I consent that an evaluation be conducted by an expert of the Service d'expertise psychosociale, and that he or she be given access to and be provided copies of the above files.

Counsel for the child _____
Minor child of 14 years of age or older

Counsel for the child _____
Minor child of 14 years of age or older

SCHEDULE II
(section 11)

FORM V

CANADA
PROVINCE OF QUÉBEC
District: _____
File No. _____

SUPERIOR COURT
Family Division

Plaintiff
v.

Defendant

ORDER FOR PSYCHOSOCIAL EVALUATION AND COMMUNICATION OF DOCUMENTS

GIVEN the evidence and representations related to the appropriateness of ordering a psychosocial expert evaluation for the following children:

_____ (given name and surname of the child)	_____ (given name and surname of the child)
_____ (given name and surname of the child)	_____ (given name and surname of the child)

CONSIDERING the Court deems it appropriate to obtain an evaluation by an expert designated by the Service d'expertise psychosociale of an institution governed by the Act respecting health services and social services (CQLR, c. S-4.2);

CONSIDERING

- the parties gave written oral consent at the hearing to have a psychosocial evaluation conducted by an expert of the Service d'expertise psychosociale, and to have the Court and medical files consulted by the designated expert;
- in the absence of consent from the parties, the Court may, on its own initiative, order that a psychosocial evaluation be conducted by an expert of the Service d'expertise psychosociale;

CONSIDERING the hearing of this case is set for _____ (if the date has been set);

FOR THESE REASONS:

ORDERS the Service d'expertise psychosociale to designate an expert to conduct a psychosocial evaluation with respect to the above children.

ORDERS that the evaluation address:

- Custody of minor child(ren) and/or
- Rights of access and/or
- Other issues affecting the child(ren) – specify: _____
- _____
- _____

ORDERS the expert to file his or her written report within three months after being designated by the Service d'expertise psychosociale or not later than _____ (to be specified especially if the date of the hearing on the merits is set for within less than three months (a. 425 C.C.P.)).

ORDERS that the report be forwarded to:

- the Chief Justice or the judge designated by the Chief Justice or the undersigned judge

AUTHORIZES the expert to examine the entire Court file, including any document deposited under seal, such as medical files and physical, mental or psychosocial evaluation reports, in accordance with article 16 of the C.C.P. and section 16 of the Regulation of the Superior Court of Québec in civil matters.

And ORDERS the following institutions governed by the Act respecting health services and social services (CQLR, c. S-4-2):

to communicate all relevant files concerning the above parents and children to the expert, for the purposes of preparing his or her psychosocial evaluation report.

In _____, on _____

Judge of the Superior Court

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