



NATIONAL ASSEMBLY OF QUÉBEC

FIRST SESSION

FORTY-THIRD LEGISLATURE

Bill 37
(2024, chapter 20)

**An Act respecting the Commissioner
for Children's Well-Being and Rights**

**Introduced 26 October 2023
Passed in principle 14 February 2024
Passed 29 May 2024
Assented to 30 May 2024**

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EXPLANATORY NOTES

This Act provides for the appointment by the National Assembly of a Commissioner for Children's Well-Being and Rights, whose functions are to promote the well-being of children and respect for their rights as well as to see to the protection of the interest of the child.

More specifically, the Act provides that the Commissioner for Children's Well-Being and Rights must, among other things,

(1) implement, including by collaborating with community organizations involved in youth-related matters, means to gather the concerns and opinions of children, in particular with regard to societal issues;

(2) analyze the state of well-being of children in Québec and, each year, draw up an overview of that state;

(3) analyze the impacts of government policies on children's well-being;

(4) inform the public about the Commissioner's role, the principles and provisions of the Convention on the Rights of the Child as well as about children's well-being and rights and raise awareness on those matters, in particular through information and educational programs;

(5) support children in the exercise of their rights by directing them to the appropriate resources and assisting them in their efforts where necessary;

(6) assess the implementation of programs and the provision of services that are intended for children and are under the responsibility of public bodies;

(7) monitor all child deaths as well as all deaths of persons at least 18 years of age and not more than 25 years of age for which an investigation or an inquest has been conducted under the Coroners Act;

(8) form a national advisory committee and regional advisory committees composed, as much as possible, of children and young adults who are representative of the diversity of Québec society to

obtain their opinions at least once a year on any question concerning a matter within the scope of the Commissioner's functions, and see to the operation of the committees;

(9) where the Commissioner considers it necessary or on request from the National Assembly, the Government or any minister, provide them with opinions and recommendations the Commissioner considers appropriate on any question concerning a matter within the scope of the Commissioner's functions; and

(10) where the Commissioner considers it necessary, provide a public body with opinions and recommendations the Commissioner considers appropriate on any question concerning a matter within the scope of the Commissioner's functions.

The Act provides that the Commissioner also exercises certain functions of office with regard to young adults in a vulnerable situation, including those whose situation has already been taken in charge by the director of youth protection or who have already been the subject of a custody or supervision measure under the Youth Criminal Justice Act. It also provides that, each year, the Commissioner must produce an activity report, which must be sent to the President of the National Assembly, as is the case for any other report the Commissioner produces within the exercise of the functions of office.

The Act provides that the Commissioner may enter into a collaboration agreement on any matter within the scope of the Commissioner's functions with the First Nations or the Inuit, and that such an agreement may also pertain to a mechanism for concerted action to coordinate their actions in supporting First Nations or Inuit children and young adults.

The Act grants the Commissioner the power, among others, to conduct any investigation the Commissioner considers useful for assessing the public bodies' implementation of programs and provision of services that are intended for children. It also provides for the appointment, by the Government, of a Deputy Commissioner, sets out the general rules for the organization of the office of Commissioner, in particular as concerns the Commissioner's personnel, and provides certain immunities to the Commissioner, the Deputy Commissioner and the members of the Commissioner's personnel.

The Act also provides that the Commissioner is to cooperate with the Commission des droits de la personne et des droits de la jeunesse, the Public Protector, the National Director of Youth Protection, the National Student Ombudsman, the national public health director or,

when the Commissioner considers it necessary, any public body or community organization to provide for mechanisms for concerted action to harmonize their interventions with regard to children and young adults.

Lastly, the Act includes amending provisions to allow the coroner or the Chief Coroner to forward to the Commissioner any report of investigation concerning the death of a child or to obtain confidential information concerning a child taken in charge by a director of youth protection, where it is necessary for the exercise of the Commissioner's functions, as well as miscellaneous and final provisions.

LEGISLATION AMENDED BY THIS ACT:

- Coroners Act (chapter C-68.01);
- Youth Protection Act (chapter P-34.1).

Bill 37

AN ACT RESPECTING THE COMMISSIONER FOR CHILDREN'S WELL-BEING AND RIGHTS

AS Québec has declared itself bound by the Convention on the Rights of the Child by Order in Council 1676-91 dated 9 December 1991;

AS Québec is a society that cares about children, where parents must exercise their authority without any violence and where children's well-being is a core concern;

AS children's rights are protected by law in Québec, in particular by the Civil Code of Québec, by the Charter of human rights and freedoms and by the Youth Protection Act;

AS it is essential to take into account the interest of children, as well as their concerns and opinions, in government policies that concern their well-being;

AS Québec must take preventive action to improve the well-being of children and facilitate the exercise of their rights;

AS a particular approach must be favoured to take into account the historic, social and cultural factors specific to First Nations and Inuit children;

AS the First Nations and Inuit are best suited to meet the needs of their children in the manner that is the most appropriate;

AS it is necessary that a person be devoted exclusively to promoting the well-being of all children and respect for their rights and to seeing to the protection of the interest of the child;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

APPOINTMENT

1. On the proposal of the Prime Minister and with the approval of two-thirds of its Members, the National Assembly appoints a Commissioner for Children's Well-Being and Rights.

The Assembly determines, in the same manner, the remuneration, employee benefits and other conditions of employment of the Commissioner.

The person proposed by the Prime Minister must have significant work experience in the promotion of the well-being of children and of respect for their rights as well as in-depth knowledge in that matter.

2. Before entering into office, the Commissioner must take the oath set out in Schedule I before the President of the National Assembly.

3. The Commissioner is appointed for a five-year term. At the expiry of the term, the Commissioner remains in office until replaced or reappointed.

4. The Commissioner may resign at any time by giving written notice to the President of the National Assembly. The Commissioner may be dismissed only by a resolution of the Assembly approved by two-thirds of its Members.

CHAPTER II

FUNCTIONS AND POWERS

DIVISION I

FUNCTIONS

5. The functions of the Commissioner are to promote the well-being of children and respect for their rights as well as to see to the protection of the interest of the child.

For those purposes, the Commissioner must, in particular,

(1) implement, including by collaborating with community organizations involved in youth-related matters, means to gather the concerns and opinions of children, in particular with regard to societal issues;

(2) analyze the state of well-being of children in Québec and, each year, draw up an overview of that state;

(3) analyze the impacts of government policies on children's well-being;

(4) inform the public about the Commissioner's role, the principles and provisions of the Convention on the Rights of the Child as well as about children's well-being and rights, and raise awareness on those matters, in particular through information and educational programs;

(5) support children in the exercise of their rights by directing them to the appropriate resources and assisting them in their efforts where necessary;

(6) assess the implementation of programs and the provision of services that are intended for children and are under the responsibility of public bodies;

(7) monitor all child deaths as well as all deaths of persons at least 18 years of age and not more than 25 years of age for which an investigation or an inquest has been conducted under the Coroners Act (chapter C-68.01);

(8) form a national advisory committee and regional advisory committees composed, as much as possible, of children and young adults who are representative of the diversity of Québec society to obtain their opinions at least once a year on any question concerning a matter within the scope of the Commissioner's functions, and see to the operation of the committees;

(9) where the Commissioner considers it necessary or on request from the National Assembly, the Government or any minister, provide them with opinions and recommendations the Commissioner considers appropriate on any question concerning a matter within the scope of the Commissioner's functions; and

(10) where the Commissioner considers it necessary, provide a public body with opinions and recommendations the Commissioner considers appropriate on any question concerning a matter within the scope of the Commissioner's functions.

The Commissioner also exercises, with regard to young adults, the functions set out in subparagraphs 3 to 6 of the second paragraph.

For the purposes of this Act,

“child” means a person under 18 years of age;

“public body” means a government department as well as a body referred to in any of sections 4 to 7 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1);

“young adult” means a person at least 18 years of age and not more than 25 years of age in a vulnerable situation, including a person whose situation has already been taken in charge by the director of youth protection or who has already been the subject of a custody or supervision measure under the Youth Criminal Justice Act (Statutes of Canada, 2002, chapter 1).

6. The Commissioner exercises the functions of office with due regard for the responsibilities otherwise assigned to the Commission des droits de la personne et des droits de la jeunesse by the Charter of human rights and freedoms (chapter C-12) and the Youth Protection Act (chapter P-34.1).

This section does not prevent the Commissioner from exercising the functions set out in section 5 with regard to the children's rights recognized by those two Acts.

7. The Commissioner exercises the functions of office exclusively and on a full-time basis.

DIVISION II

POWERS

8. For the discharge of the functions of office, the Commissioner may, in particular,

- (1) receive and hear observations from persons or groups;
- (2) conduct or commission such analyses, studies and research as the Commissioner considers necessary;
- (3) call on outside experts to report on one or more specific points determined by the Commissioner;
- (4) assign a member of the Commissioner's personnel or an expert mandated by the Commissioner to a public body and require that body to provide the premises and equipment that the Commissioner considers necessary; and
- (5) at any time, produce a report on any matter within the scope of the Commissioner's functions.

9. A public body must, on request, allow the Commissioner to have access to and make copies of records, reports, documents or information, in whatever form, that are necessary to the exercise of the functions of office referred to in subparagraphs 2, 3, 6 and 7 of the second paragraph of section 5, and provide the Commissioner with any related information and explanation.

A public body that provides services intended for children must also, on request, allow the Commissioner to access, at any reasonable time, premises held by the body if the Commissioner considers it useful for the exercise of the functions of office referred to in subparagraph 6 of the second paragraph of section 5, in particular to receive and hear observations from the persons present.

10. The Commissioner may, on the Commissioner's own initiative, conduct any investigation the Commissioner considers useful for the exercise of the functions of office referred to in subparagraph 6 of the second paragraph of section 5.

The Commissioner may also conduct such an investigation at the National Assembly's request. The Commissioner produces a report following any investigation so conducted.

The Commissioner and every person specially authorized by the Commissioner to investigate are vested, for the purposes of the investigation, with the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (chapter C-37), except the power to order imprisonment.

11. The Commissioner cooperates with the Commission des droits de la personne et des droits de la jeunesse, the Public Protector, the National Director of Youth Protection, the National Student Ombudsman, the national public health director or, when the Commissioner considers it necessary, any public body or community organization to provide for mechanisms for concerted action to harmonize their interventions with regard to children and young adults.

12. The Commissioner may, in the exercise of the functions of office referred to in subparagraphs 2, 3 and 6 of the second paragraph of section 5, make any recommendation to a public body and require that the Commissioner be informed of the measures that are taken to follow up on the recommendation.

13. If, after making a recommendation to a public body, the Commissioner considers that no satisfactory measure has been taken within a reasonable time to follow up on it, the Commissioner may so notify the Government in writing and, if the Commissioner considers it necessary, explain the situation in a report referred to in paragraph 5 of section 8.

14. In order to remedy situations observed in the exercise of the functions of office referred to in subparagraphs 2, 3 and 6 of the second paragraph of section 5, avoid the recurrence of such situations or prevent similar situations, the Commissioner may give an opinion to a public body or the Government on the legislative, regulatory or administrative reforms that the Commissioner considers to be consistent with the interest of the child.

If the Commissioner considers it necessary, the Commissioner may explain the situations in a report referred to in paragraph 5 of section 8.

15. Each year, within four months after the end of the fiscal year, the Commissioner produces a report on the Commissioner's activities related to the exercise of the functions of office referred to in section 5.

In the report, the Commissioner points out any matter or any case that, in the Commissioner's opinion, should be brought to the attention of the National Assembly. The Commissioner also mentions any difficulties encountered in the Commissioner's investigations, any recommendations made under section 12 or any notices or opinions given under section 13 or 14.

The Commissioner also includes in the report the overview of the state of well-being of children in Québec provided for in subparagraph 2 of the second paragraph of section 5.

16. The Commissioner sends the reports produced under this division to the President of the National Assembly.

The President tables the reports in the National Assembly within 15 days after receiving them or, if the Assembly is not sitting, within 15 days after the opening of the next session or after resumption.

The competent committee of the National Assembly examines the activity report referred to in section 15 within three months after it is tabled.

CHAPTER III

FIRST NATIONS AND INUIT

17. The Commissioner may, in accordance with the Act respecting the Ministère du Conseil exécutif (chapter M-30), enter into a collaboration agreement on any matter within the scope of the Commissioner's functions with the First Nations or the Inuit represented by all the band councils or northern village councils of the communities that make them up, with the Makivik Corporation, with the Cree Nation Government or with a First Nations or Inuit community represented by its band council or by the northern village council, with a group of communities so represented or with any other First Nations or Inuit group. The agreement may also pertain to a mechanism for concerted action to coordinate their actions in supporting First Nations or Inuit children and young adults.

The Commissioner sends any agreement entered into under this section to the President of the National Assembly, who tables it in the Assembly within 30 days after receiving it or, if the Assembly is not sitting, within 30 days after the opening of the next session or after resumption.

CHAPTER IV

ORGANIZATION

18. The Government appoints a Deputy Commissioner on the recommendation of the Commissioner to assist the latter in the exercise of the functions of office.

The Government determines the remuneration, employee benefits and other conditions of employment of the Deputy Commissioner. The Deputy Commissioner's term must not exceed five years, but the Deputy Commissioner remains in office at the expiry of that term until reappointed or replaced. The Government may dismiss the Deputy Commissioner before the end of the term, but only for cause.

19. The Commissioner determines the functions and powers of the Deputy Commissioner.

20. If the Commissioner is absent or unable to act, or if the office of Commissioner is vacant, the Deputy Commissioner acts as interim Commissioner.

If the Deputy Commissioner is also absent or unable to act, or if the office of Deputy Commissioner is vacant, the Commissioner is replaced by a person appointed temporarily for that purpose by the Government, which, if need be, determines the remuneration, employee benefits and other conditions of employment of that person.

21. Members of the Commissioner's personnel are appointed in accordance with the Public Service Act (chapter F-3.1.1).

The Commissioner exercises, with regard to the personnel, the powers conferred by that Act on a chief executive officer.

22. The Commissioner establishes, without further formality, the Commissioner's human resources management policies with respect to planning, organization and development.

Subject to the appropriations granted by Parliament, the Commissioner determines the staff needed for the exercise of the functions of office, the staff distribution and the level of the staff members' positions.

23. The Commissioner prepares annual budget estimates and submits them to the Office of the National Assembly, which approves them with or without modification.

If, during a fiscal year, the Commissioner foresees that the budget estimates approved by the Office of the National Assembly will be exceeded, the Commissioner prepares supplementary budget estimates and submits them to the Office of the National Assembly, which approves them with or without modification.

The provisions of the Financial Administration Act (chapter A-6.001) applicable to budget-funded bodies, except sections 30 and 31, apply to the management of the Commissioner's financial resources.

24. The Public Administration Act (chapter A-6.01), except subparagraph 6 of the first paragraph and the second paragraph of section 9, sections 10 to 23, subparagraph 3 of the second paragraph of section 24 and the third paragraph of that section, sections 25 to 28, section 44, the fourth paragraph of section 45, sections 46, 48, 49, 50 and 53, the third paragraph of section 57, and sections 74 to 75, 77.3 and 78, applies to the Commissioner. The report referred to in section 24 of that Act is included in the activity report referred to in section 12 of this Act.

The President of the National Assembly tables in the Assembly the Commissioner's strategic plan referred to in section 8 of the Public Administration Act.

25. The Commissioner may, by regulation, determine the conditions applicable to the contracts the Commissioner may enter into.

The regulation comes into force on the date it is approved by the Office of the National Assembly. It is published in the *Gazette officielle du Québec*.

CHAPTER V

IMMUNITY

26. The Commissioner, the experts the Commissioner calls on under paragraph 3 of section 8, the Deputy Commissioner and the members of the Commissioner's personnel cannot be compelled to make a deposition relating to information obtained in the exercise of their functions or to produce a document containing such information.

27. No judicial proceedings may be brought against the Commissioner, the Deputy Commissioner or the members of the Commissioner's personnel for an act or omission in good faith in the exercise of their functions.

28. No civil action may be brought because of the publication of an opinion, recommendation or report of the Commissioner, or the publication, in good faith, of an extract from or summary of such an opinion, recommendation or report.

29. Except on a question of jurisdiction, no application for judicial review under the Code of Civil Procedure (chapter C-25.01) may be brought, nor any injunction granted, nor any other provisional measure taken, against the Commissioner, the experts the Commissioner calls on under paragraph 3 of section 8, the Deputy Commissioner or the members of the Commissioner's personnel in the exercise of their functions.

A judge of the Court of Appeal may, on an application, summarily annul a decision, order or injunction made or granted contrary to this section.

CHAPTER VI

AMENDING PROVISIONS

CORONERS ACT

30. Section 99 of the Coroners Act (chapter C-68.01) is amended by adding the following paragraph at the end:

“The coroner or the Chief Coroner shall forward to the Commissioner for Children's Well-Being and Rights such a copy of any report of investigation concerning the death of a person 25 years of age or under.”

YOUTH PROTECTION ACT

31. Section 72.6 of the Youth Protection Act (chapter P-34.1) is amended by adding the following subparagraph at the end of the second paragraph:

“(5) to the Commissioner for Children’s Well-Being and Rights, where the disclosure is necessary for the exercise of the Commissioner’s functions referred to in subparagraph 6 of the second paragraph of section 5 of the Act respecting the Commissioner for Children’s Well-Being and Rights (2024, chapter 20).”

CHAPTER VII

MISCELLANEOUS AND FINAL PROVISIONS

32. The Commissioner must, not later than three years after the date of coming into force of this Act, report to the National Assembly on the implementation of this Act.

The Commissioner sends the report to the President of the National Assembly, who tables it within 30 days after receiving it or, if the Assembly is not sitting, within 30 days of resumption.

The competent committee of the National Assembly examines the report within three months after it is tabled.

33. The Minister of Health and Social Services is responsible for the administration of this Act.

34. The provisions of this Act come into force on 30 May 2024, except sections 5, 6 and 8 to 31, which come into force on the date on which the first Commissioner for Children’s Well-Being and Rights appointed under section 1 takes office.

SCHEDULE I
(Section 2)

OATH

I declare under oath that I will fulfil the duties of my office with honesty, impartiality and justice and that I will not accept any sum of money or any other consideration for what I do in the discharge of my duties apart from what is allowed to me by law.

I further declare under oath that I will not reveal, unless duly authorized, any information I have obtained in the discharge of my duties.