

Gouvernement du Québec

## O.C. 1325-2024, 21 August 2024

Act respecting the Québec correctional system  
(chapter S-40.1)

### Regulation

#### —Amendment

Regulation to amend the Regulation under the Act respecting the Québec correctional system

WHEREAS, under subparagraphs 1, 3 and 5 to 8 of the first paragraph of section 193 of the Act respecting the Québec correctional system (chapter S-40.1), the Government may, by regulation,

—determine, in addition to the powers already provided for in this Act, the powers that the director of a correctional facility may exercise;

—establish standards respecting the administration and internal management of correctional facilities and the surveillance and security measures that must be taken in correctional facilities;

—determine the cases in which persons entrusted to the correctional services, visitors, personnel members and the cells of a correctional facility may be searched, the kinds of searches permitted, the conditions in which searches may be conducted and the persons or categories of persons who may conduct such searches;

—prescribe administrative segregation measures that may be taken against an inmate where there are reasonable grounds to believe that the inmate is in possession of contraband;

—determine, in addition to the responsibilities already provided for in this Act, the responsibilities of inmates;

—determine the measures that a member of the personnel of a correctional facility must take on becoming aware of a breach of discipline, establish the rules of procedure and decision criteria to be used by discipline committees as well as the punishment they may impose, and determine the conditions applicable to the decision review mechanism;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft Regulation to amend the Regulation under the Act respecting the Québec correctional system was published in Part 2 of the *Gazette officielle du Québec* of 17 April 2024 with a notice that it could be made by the Government on the expiry of 45 days following that publication;

WHEREAS it is expedient to make the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of Public Security:

THAT the Regulation to amend the Regulation under the Act respecting the Québec correctional system, attached to this Order in Council, be made.

DOMINIQUE SAVOIE

*Clerk of the Conseil exécutif*

## Regulation to amend the Regulation under the Act respecting the Québec correctional system

Act respecting the Québec correctional system  
(chapter S-40.1, s. 193, 1st par., subpars. 1, 3, and 5 to 8).

**1.** The Regulation under the Act respecting the Québec correctional system (chapter S-40.1, r. 1) is amended in section 2 of the French text by replacing “interdits” in paragraphs 4 and 5 by “prohibés”.

**2.** Section 4 is amended

(1) by inserting “other” before “items”;

(2) by replacing “property” wherever it appears by “items”.

**3.** Section 5 is amended

(1) by replacing “property from the outside, the property must be forwarded to the inmate, unless the inmate is not authorized to keep the property in his or her possession, in which case it is returned to the sender or to the person who brought it” in the first paragraph by “items from the outside, the items must be forwarded to the inmate, unless the inmate is not authorized to keep the items in his or her possession, in which case they are returned to the sender or to the person who brought them”;

(2) by replacing “property is” in the second paragraph by “items are”.

**4.** The following is inserted after section 5:

“**5.1.** The following items are contraband in a correctional facility:

(1) intoxicating substances such as drugs, narcotics, alcohol and non-prescription medicine;

(2) weapons, explosives, bombs and their components, ammunition, as well as any item designed, modified or assembled so as to cause death or injury;

(3) any other item likely to endanger security at the correctional facility or the safety of the persons present there, in particular tobacco, cellular telephones and USB keys, the possession of which has not been authorized.”.

**5.** The heading of Chapter II is amended in the French text by striking out “LES”.

**6.** The heading of Division I of Chapter II is replaced by the following:

“SEARCHES OF PERSONS”.

**7.** The following is inserted after the heading of Division I of Chapter II:

“§1. *Types of searches and conditions for conducting searches*”.

**8.** The following is inserted after section 19:

“**19.1.** Body scan search means a search conducted using a device that can detect items that could have been hidden on a person, in particular in their hair, clothing or body cavities, or inside a prosthesis.

For the purposes of this Regulation, a body scan search does not constitute an x-ray.”.

**9.** Section 20 is amended

(1) by replacing the first paragraph by the following:

“Frisk search means a hand search of the clothed body carried out from head to foot, down the front and rear of the body, around and between the legs and thighs, and inside the folds of the clothing, pockets and footwear. If necessary, the person may be requested to lift, lower or open his or her outerwear for a visual inspection.”;

(2) by replacing subparagraph 1 of the fourth paragraph of the French text by the following:

“1° la fouille sommaire d’une personne de sexe féminin doit toujours être effectuée par un agent des services correctionnels de sexe féminin;”.

**10.** Section 21 is replaced by the following:

“**21.** A strip search is a contact-free search of the naked body, the open mouth and the insides of the nose and ears, and the visual inspection of all the folds of the body. If necessary, the person must remove his or her dental prosthesis, hairpiece or other such device, display the soles of his or her feet, run his or her fingers through

his or her hair, open hands, spread and lift arms, lift, where applicable, adipose tissue, the breasts, the penis and testicles, and bend and spread the buttocks to allow the visual inspection of the rectum and, where applicable, the vagina. All clothing and effects must also be searched.

The strip search of a female or a male must be conducted by a correctional officer of the same gender.”.

**11.** Section 22 is amended by replacing “for a woman an inspection of the rectum and vagina and for a man an inspection of the rectum” by “an inspection of the rectum and, where applicable, the vagina”.

**12.** The Regulation is amended by striking out the following portion before section 24:

“**DIVISION II**  
SEARCHES OF PERSONS AND PREMISES”.

**13.** Sections 24 and 25 are replaced by the following:

“**24.** The search of a person must be conducted in a manner that respects human dignity and minimizes intrusion.

Searches that may be conducted by a correctional officer may also be carried out by a manager in charge, if necessary.

Personnel members called on to conduct searches must have received the necessary training.”.

**14.** Division III of Chapter II becomes subdivision 2 of Division I of Chapter II and its heading is replaced by the following:

“*Searches of inmates*”.

**15.** Section 26 is replaced by the following:

“**26.** A correctional officer may submit an inmate to a non-intrusive search, a frisk search or a body scan search in the following circumstances:

(1) the inmate is entering or leaving an area, workshop, activity room or outdoor yard in the facility;

(2) as part of a search of the inmate’s cell or area conducted pursuant to this Regulation.”.

**16.** Section 27 is amended

(1) by replacing “strip search an inmate” in the portion before paragraph 1 by “submit an inmate to a non-intrusive search, a frisk search, a body scan search or a strip search”;

(2) by replacing paragraph 4 by the following:

“(4) the inmate is leaving an area, workshop, activity room or outdoor yard in the facility where the inmate may have had access to contraband that the inmate could have hidden on his or her person.”;

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

“(6) as part of a search of the inmate’s cell or area conducted pursuant to this Regulation, if the inmate may have had access to contraband that the inmate could have hidden on his or her person.”.

**17.** Section 28 is amended in the first paragraph

(1) by replacing “frisk or strip search an inmate” in the portion before paragraph 1 by “submit an inmate to a frisk search, a body scan search or a strip search”;

(2) by replacing “ou interdit” and “objet interdit” in subparagraph 1 of the French text by “ou prohibé” and “objet”, respectively;

(3) by replacing “interdit” in subparagraph 3 of the French text by “prohibé”.

**18.** Section 29 is amended

(1) by replacing “interdit” in the first paragraph of the French text by “prohibé”;

(2) by striking out “interdit” in the second paragraph of the French text;

(3) by striking out the third paragraph.

**19.** Section 30 is amended

(1) by replacing “interdit” in the first paragraph of the French text by “prohibé”;

(2) by striking out “interdit” in the second paragraph of the French text.

**20.** Division IV of Chapter II becomes Chapter II.1 and its heading is amended by adding the following at the end:

“OF INMATES”.

**21.** Section 31 is renumbered 50.1 and replaced by the following:

“**50.1.** A correctional officer may request that the manager in charge confine an inmate in administrative segregation

(1) if the correctional officer has reasonable grounds to believe that the inmate is hiding contraband on his or her person; or

(2) if the inmate refuses, without a justifiable medical reason, to submit to a body scan search in the circumstances provided for in this Regulation.”.

**22.** Sections 32, 33, 34 and 35 are renumbered 50.2, 50.3, 50.4 and 50.5, respectively.

**23.** Section 36 is renumbered 50.6 and is replaced by the following:

“**50.6.** Administrative segregation lasts 72 hours. It may be extended once for a 24-hour period if the manager in charge has reasonable grounds to believe that the inmate has taken medicine to prevent expelling the contraband.

In addition, the manager in charge may impose a new administrative segregation measure on an inmate in the following cases:

(1) if the inmate has again ingested or inserted the contraband;

(2) if a body scan search conducted when the inmate is leaving an administrative segregation cell in accordance with this Regulation gives reasons to believe that the inmate is still hiding contraband on his or her person;

(3) if the inmate refuses, without a justifiable medical reason, to submit to a body scan search conducted when the inmate is leaving an administrative segregation cell in accordance with this Regulation;

(4) if the inmate cannot be submitted to a body scan search for a justifiable medical reason or the device used to conduct a body scan search is not available, if there are still reasonable grounds to believe that the inmate is hiding contraband on his or her person.

In all cases, administrative segregation must end as soon as a body scan search confirms that the inmate is not hiding contraband on his or her person. If the inmate cannot be submitted to a body scan search for a justifiable medical reason or the device used to conduct a body scan search is not available, administrative segregation must end as soon as it is possible to confirm by other means that the inmate is not hiding contraband on his or her person, in particular because the contraband has been expelled.”.

**24.** Division V of Chapter II becomes subdivision 3 of Division I of Chapter II and its heading is replaced by the following:

“*Searches of visitors*”.

**25.** Section 37 is amended by striking out the second paragraph.

**26.** Section 38 is amended in the French text by replacing “interdit” by “prohibé”.

**27.** The following is inserted after section 41:

“**41.1.** A person authorized to visit an inmate or a correctional facility under section 57 is considered to be a visitor for the purposes of this subdivision.”

**28.** Division VI of Chapter II becomes subdivision 4 of Division I of Chapter II and its heading is replaced by the following:

“*Searches of personnel members*”.

**29.** Section 42 is amended by replacing “or frisk search” by “, a frisk search or a body scan search”.

**30.** Section 43 is amended

(1) by inserting “body scan search or a” after “personnel member to a”;

(2) by replacing “interdit” in the French text by “prohibé”.

**31.** Division VII of Chapter II becomes Division II of Chapter II and its heading is replaced by the following:

“SEARCHES OF PREMISES AND VEHICLES”.

**32.** Sections 46 and 48 are amended in the French text by replacing “interdits” wherever it appears by “prohibés”.

**33.** The Regulation is amended by striking out the following portion before section 50:

“**DIVISION VIII**  
SEARCHES OF AREAS AND VEHICLES”.

**34.** Section 50 is amended by replacing

(1) “a correctional officer” by “correctional officers”;

(2) “interdit” in the French text by “prohibé”;

(3) by replacing “exercise yards” by “outdoor yards”.

**35.** Section 51 is amended by replacing “interdite ou restreinte” in the first paragraph of the French text by “non autorisée ou prohibée”.

**36.** Section 52 is amended in the French text by replacing “interdite” in subparagraph 1 of the first paragraph by “prohibée”.

**37.** Section 53 is amended in the French text by replacing “interdite ou non autorisée” in subparagraph 1 of the first paragraph by “non autorisée ou prohibée”.

**38.** Section 68 is amended by striking out “, including alcoholic beverages, drugs, narcotics, non-prescription medicine, keys or any other item that may be considered as an offensive weapon such as a piece of glass, metal, wood or plastic” in subparagraph 5 of the second paragraph.

**39.** Section 76 is amended

(1) by striking out “to the facility director” in the first paragraph;

(2) by striking out the second paragraph.

**40.** Sections 78 and 79 are amended by striking out “the facility director or” in the portion before paragraph 1.

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

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