

NATIONAL ASSEMBLY
Thirty-third Legislature, first session

1987, chapter 19

AN ACT TO AMEND THE ACT RESPECTING PROBATION AND HOUSES OF DETENTION

Bill 83

Introduced by Mr Gérard Latulippe, Solicitor General

Introduced 19 June 1986

Passage in principle 6 November 1986

Passage 14 April 1987

Assented to 15 April 1987

Coming into force: on the date fixed by the Government

Acts amended:

Act respecting probation and houses of detention (R.S.Q., chapter P-26)

Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001)



CHAPTER 19

An Act to amend the Act respecting probation and houses of detention

[Assented to 15 April 1987]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

c. P-26, s. 1,
am. **1.** Section 1 of the Act respecting probation and houses of detention (R.S.Q., chapter P-26) is amended by adding the following paragraph:

“activities” “(h) “activities”: any activities designed to promote the rehabilitation of confined persons, particularly work activities, whether remunerated or not, leisure and training activities, and sports and socio-cultural activities.”

c. P-26,
ss. 19-19.5,
repealed

2. Sections 19 to 19.5 of the said Act are repealed.

c. P-26,
s. 19, 6.1,
replaced

3. Section 19.6.1 of the said Act is replaced by the following section:

Exception

“**19.6.1** Notwithstanding the Act respecting occupational health and safety (chapter S-2.1), only sections 12 to 48 and paragraph 11 of section 51 of the said Act apply to

(1) a person confined in a house of detention who carries out remunerated work under a program of activities; for the purposes of the said Act, the fund for the benefit of confined persons established in that house of detention under section 22.0.1 is presumed to be his employer;

(2) a person who executes a probation order involving community work; for the purposes of the said Act, the Government is presumed to be his employer.

Employer's
contribution

The contribution of the employer is established according to the standards applied under the said Act by the Commission de la santé et de la sécurité du travail."

c. P-26,
s. 19.7,
replaced

4. Section 19.7 of the said Act, amended by section 268 of chapter 34 of the statutes of 1985, is replaced by the following section:

Inapplicable
provisions

"19.7 The Labour Code (chapter C-27), the Act respecting collective agreement decrees (chapter D-2), the Act respecting labour standards (chapter N-1.1), the Public Service Act (chapter F-3.1.1), the Act respecting labour relations in the construction industry (chapter R-20), Chapter IV of the Building Act (1985, chapter 34), the Master Electricians Act (chapter M-3), the Master Pipe-Mechanics Act (chapter M-4) and the Act respecting manpower vocational training and qualification (chapter F-5) do not apply to a person confined in a house of detention who carries out

(1) work inside such establishment;

(2) work outside such establishment in an undertaking operated by the fund for the benefit of confined persons that has been established therein;

(3) a probation order involving community work."

c. P-26,
s. 21, am.

5. Section 21 of the said Act is amended by replacing the word "detained" in the first line by the word "confined".

c. P-26,
s. 22, am.

6. Section 22 of the said Act is amended by replacing the figures "19, 19.1" in the fourth line by the figure "22.0.3".

c. P-26,
ss. 22.0.1-
22.0.31,
added

7. The said Act is amended by inserting, after section 22, the following:

"DIVISION V.0.1

"PROGRAMS OF ACTIVITIES FOR CONFINED PERSONS

"§ 1.—Fund for the benefit of confined persons

Establish-
ment of
fund

"22.0.1 A fund for the benefit of confined persons is hereby established in every house of detention.

Corporate
name

The corporate name of every fund shall include the expression "Fonds au bénéfice des personnes incarcérées" and indicate the name of the house of detention.

Functions **“22.0.2** The functions of every fund shall be to establish each year, on the date fixed by the central fund for the benefit of confined persons and within the framework determined by regulation, a program of activities for confined persons, and to see to its implementation. The program and any change in the program must be approved by the central fund.

Financial assistance A further function of every fund is to give financial assistance to confined persons on the conditions prescribed by regulation.

Administration For those purposes, the fund, in accordance with the regulations, shall administer funds constituted of

(1) sums deducted from the remuneration owed to a confined person, being the percentage thereof fixed by regulation;

(2) gifts for the benefit of confined persons, subject to any attached conditions;

(3) any income generated by a program of activities;

(4) sums of money from any other source that may be determined by regulation;

(5) interest yielded by the sums of money of which the fund is constituted.

Director General **“22.0.3** The Director General may, within the framework of a program of activities for confined persons,

(1) entrust the organization and management of services in the house of detention to the fund for the benefit of confined persons;

(2) authorize a confined person to become involved in activities inside and outside the house of detention;

(3) permit the fund to use the services, staff, premises and facilities of a house of detention, on the conditions prescribed by regulation.

Authorization In the cases prescribed by regulation, authorization cannot be given under subparagraph 2 of the first paragraph without taking into account the opinion of the person designated by regulation.

Powers The powers of the Director General under this section may be exercised by a person designated by him in writing.

Corporation **“22.0.4** Every fund is a corporation.

- Corporate seat **"22.0.5** The corporate seat of the fund is at the house of detention.
- Board of directors **"22.0.6** The fund shall be administered by a board of directors composed of the warden and six other members appointed by the Director General.
- Members Two members shall be chosen from among the persons confined in the house of detention, upon the proposal of those persons.
- Members Two members shall be chosen from among the officers working under the authority of the warden or of the Director General.
- Members Two members shall be chosen from among other persons who are interested in the rehabilitation of confined persons and who are resident in the territory of the house of detention; one of these members must be a representative of the business community.
- Term of office **"22.0.7** The term of office of a member of the board of directors, other than that of the warden, shall not exceed two years. The term is renewable.
- Term of office Each shall remain in office notwithstanding the expiry of his term until he is replaced or reappointed.
- Chairman and vice-chairman **"22.0.8** The members of the board of directors shall elect a chairman and a vice-chairman from among themselves. The vice-chairman shall carry on the functions of the chairman if he is temporarily absent or unable to act.
- Quorum **"22.0.9** A majority of the members of the board of directors, including the warden or an officer, forms a quorum.
- Tie-vote In the event of a tie-vote, the chairman has a casting vote.
- Decision **"22.0.10** A decision signed by all the members of the board of directors has the same force as if it had been taken at a regular sitting.
- Powers and duties **"22.0.11** The board of directors shall administer the affairs and exercise all the powers of the fund.
- Powers **"22.0.12** A fund may, among other things,
- (1) subject to the rules prescribed by regulation, enter into any contract to enable a confined person to benefit from activities inside or outside the house of detention;
- (2) contract loans, according to the rules and on the terms and conditions prescribed by regulation, to finance a program of activities;

(3) authorize expenditures out of its funds;

(4) hire any person necessary for the performance of its functions.

Gift or loan **"22.0.13** A fund may make a gift or grant a loan, with or without interest, to another fund established under section 22.0.1.

Guarantee **"22.0.14** The Government may, on such conditions as it may determine, guarantee, out of the consolidated revenue fund or otherwise, the payment in capital and interest of any loan or assume the cost of any other obligation contracted by a fund.

Remuneration **"22.0.15** The remuneration owing to a person confined in a house of detention shall be paid into the fund established in that house of detention.

Deduction **"22.0.16** Every fund shall deduct an amount from the remuneration owing to a person confined in a house of detention, being the percentage thereof fixed by regulation, and pay it into the fund, and shall make the deductions prescribed by an Act in force in Québec or a statutory instrument thereunder or by a court judgment, as the case may be.

Balance The balance of the remuneration shall be paid to the warden of the house of detention, who shall remit to the confined person, out of that balance, the allowance determined by regulation.

Balance **"22.0.17** Subject to any contrary agreement in writing and authorized by the Director General, the balance of the remuneration shall be deposited by the warden in a financial institution and credited to the savings account held in trust for such purpose by the warden. When the confined person is released, the warden shall, by a cheque signed by him, pay to the person the amount and interest owing to him.

Report **"22.0.18** The warden of every house of detention shall make a report to every person confined there, at least once every month and at the time of his release, of the remuneration he has received on the person's behalf and of the deductions and deposits made under section 22.0.15 or 22.0.16.

Contribution **"22.0.19** Every fund shall pay a contribution to the central fund for the benefit of confined persons at the time fixed by the fund.

Contribution The contribution shall be fixed by the central fund within the limits prescribed by regulation, and may be different for each fund.

Financial year “**22.0.20** The financial year of a fund ends on 31 December each year.

Signature “**22.0.21** No deed, document or writing binds a fund unless it is signed by the chairman or any other duly authorized officer.

Financial statements and report of activities “**22.0.22** Every fund shall, not later than 30 April each year, submit its financial statements and a report of its activities for the preceding financial year to the Minister. The financial statements and the report of activities must contain all the information required by the Minister.

Copy Copy of such financial statements and report of activities and of the auditor’s report that accompanies them must also be transmitted to the central fund for the benefit of confined persons.

Information “**22.0.23** Every fund shall also furnish the Minister with any information he requires on its activities.

Audit “**22.0.24** The books and accounts of every fund shall be audited each year.

Auditor’s report The auditor’s report must accompany the report of activities and financial statements of the fund.

Audit The Minister may also, at any time, order the audit of the books and accounts of a fund by an auditor designated by him.

Closing of house of detention “**22.0.25** If a house of detention is closed, the fund shall be wound up according to the rules and on the terms and conditions prescribed by regulation.

“§ 2.—*Central fund for the benefit of confined persons*”

Establishment “**22.0.26** A central fund called the “Fonds central pour le bénéfice des personnes incarcérées” is hereby established.

Functions “**22.0.27** The functions of the central fund are

(1) to lend support to a fund established in a house of detention and in financial difficulty, for which purpose it may make a gift to it or grant it a loan with or without interest;

(2) to devise policies concerning programs of activities and to advise the Government on what regulations to adopt;

(3) to approve the program of activities established by every fund established in a house of detention.

Management

"22.0.28 The central fund shall, for the purposes of paragraph 1 of section 22.0.26, manage, in accordance with the regulations, a fund constituted of

(1) the contributions paid pursuant to section 22.0.18 by the funds established in houses of detention;

(2) sums of money from any other source that may be determined by regulation;

(3) the interest on the moneys in the fund.

Corporation

"22.0.29 The central fund is a corporation.

Corporate seat

"22.0.30 The corporate seat of the central fund is at the Service.

Board of directors

"22.0.31 The central fund shall be administered by a board of directors composed of seven members appointed by the Minister; three members shall be chosen from among the wardens of the houses of detention, two shall be chosen from among the officers of the Service, and two shall be chosen from among other persons interested in the rehabilitation of confined persons, including a representative of the business community.

Term of office

The members of the board of directors shall be appointed for two years. Their term of office is renewable.

Term of office

Each member shall remain in office notwithstanding the expiry of his term until he is replaced or reappointed.

Applicable provisions

"22.0.32 Sections 22.0.8 to 22.0.11 and 22.0.19 to 22.0.23, adapted as required, apply to the central fund."

c. P-26,
s. 22.17,
am.

8. Section 22.17 of the said Act is amended by replacing the words and figures "sections 19 and 19.1" in the second line by the word and figure "section 22.0.3".

c. P-26,
s. 23, am.

9. Section 23 of the said Act is amended

(1) by replacing paragraph *e* by the following paragraph:

"(*e*) subject to section 17, establish different classes of confined persons and prescribe standards respecting their confinement separately from one another;"

(2) by replacing the word "inmates" in paragraph *g* by the words "confined persons";

(3) by replacing the word “detained” in paragraph *h* by the word “confined”;

(4) by striking out paragraph *i*;

(5) by replacing paragraph *j* by the following paragraphs:

“(j) prescribe the measures to be taken to facilitate access by confined persons to academic, occupational training or self-improvement courses;

“(j.1) determine other sources of sums of money which may go to constitute the funds contemplated in the third paragraph of section 22.0.2 or in section 22.0.27;”;

(6) by replacing the word “inmates” in paragraph *l* by the words “confined persons”;

(7) by striking out paragraphs *n* to *r*.

c. P-26,
s. 23.1,
added

10. The said Act is amended by inserting, after section 23, the following section:

Regulations

“23.1 The Government shall make any regulations necessary for the administration of Division V.0.1 respecting programs of activities for confined persons, and shall, in particular,

(1) fix criteria for the establishment of a program of activities, determine activities which must or may be included in such a program and, where such is the case, in the program of activities of each fund established in each house of detention;

(2) determine standards of implementation of programs of activities;

(3) prescribe the conditions under which a fund established in a house of detention may give financial assistance to a confined person;

(4) determine standards of management of the sums of money which go to constitute a fund contemplated in the third paragraph of section 22.0.2 or in section 22.0.27 and determine which investments and loans of a fund must be authorized by the central fund;

(5) determine the rules to be followed by a fund established in a house of detention in the exercise of the power contemplated in paragraph 1 of section 22.0.12;

(6) prescribe rules, terms and conditions respecting the borrowing powers of a fund established in a house of detention and determine which borrowings must be authorized by the central fund;

(7) prescribe the conditions on which a fund established in a house of detention may use the services, staff, premises and facilities of the establishment;

(8) prescribe cases where authorization contemplated in section 22.0.3 cannot be given without taking into account the opinion of the person it designates by regulation;

(9) establish standards respecting the remuneration and other conditions of employment of persons performing duties under a program of activities;

(10) prescribe rules, terms and conditions respecting the winding-up of a fund established in a house of detention;

(11) determine, for the application of section 22.0.15, the percentage of the remuneration owing to a confined person, which may vary according to the criteria it prescribes by regulation;

(12) prescribe the limits within which the central fund shall determine the amount of the contribution payable by each fund established in a house of detention, which may vary according to the criteria it prescribes by regulation;

(13) determine what allowance a person confined in a house of detention may receive out of the remuneration owed to him and what purchases and reimbursements he may make."

c. P-26,
s. 24,
repealed
c. P-26,
s. 25, am.

11. Section 24 of the said Act is repealed.

12. Section 25 of the said Act is amended by replacing the words and figure "*j* and *l* to *r* of section 23" in the fourth line of the first paragraph by the words and figures "*j.1*, *l* and *m* of section 23 and in section 23.1."

ACT RESPECTING INDUSTRIAL ACCIDENTS
AND OCCUPATIONAL DISEASES

c. A-3.001,
s. 11, am.

13. Section 11 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001) is amended

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

“(2) a person who, under the Act respecting probation and houses of detention (chapter P-26), executes a probation order involving community work;”;

(2) by striking out the second paragraph.

c. A-3.001,
s. 12.1,
added

14. The said Act is amended by inserting, after section 12, the following section:

“CONFINED PERSONS WHO CARRY OUT REMUNERATED
WORK UNDER A PROGRAM OF ACTIVITIES

Confined
person

“**12.1** A confined person is deemed to be a worker employed by the fund for the benefit of confined persons established in a house of detention under section 22.0.1 of the Act respecting probation and houses of detention if he carries out remunerated work under a program of activities.

Applicable
provisions

Sections 22.0.15 to 22.0.17 of the said Act apply to the indemnities owing to a confined person.”

c. A-3.001,
s. 77, am.

15. Section 77 of the said Act is amended by inserting, after the figure “12” in the third line of the first paragraph, the following: “, 12.1”.

c. A-3.001,
s. 78, am.

16. Section 78 of the said Act is amended by inserting, after the figure “12” in the second line of the first paragraph, the following: “, 12.1”.

c. A-3.001,
s. 294, am.

17. Section 294 of the said Act is amended by adding the following paragraph:

Applicability

“The first paragraph, adapted as required, also applies to a fund for the benefit of confined persons contemplated in section 12.1.”

c. A-3.001,
s. 296, am.

18. Section 296 of the said Act is amended by inserting, after the second paragraph, the following paragraph:

Register

“A fund for the benefit of confined persons contemplated in section 12.1 shall keep a detailed register of the names and addresses of the persons contemplated in the said section.”

c. A-3.001,
s. 310, am.

19. Section 310 of the said Act is amended by adding the following paragraph:

“(4) the employer of a confined person contemplated in section 12.1, according to the minimum wage in force on 31 December of the year during which the work was carried out.”

c. A-3.001,
s. 440, am. **20.** Section 440 of the said Act is amended by adding, after the figure “11” in the third line, the following: “or 12.1”.

Rights and obligations **21.** Every fund for the benefit of confined persons is bound by the obligations and has all the rights arising from programs of remunerated activities established in the house of detention where it is established. It is deemed to have been a party to every act performed in respect of such programs from the time of their establishment in the house of detention and is substituted for those who originally acted.

Rights Similarly, it is the holder of the rights in the property comprising the fund for the benefit of confined persons in the house of detention where the fund is established.

Central fund **22.** The central fund for the benefit of confined persons is bound by the obligations and has all the rights relating to the central fund managed by the Service de la probation et des établissements de détention. It is deemed to have been a party to every act performed in respect of the latter fund from its inception and is substituted for those who originally acted.

Rights Similarly, it is the holder of the rights in the property comprising the latter fund.

Records and documents **23.** The records and documents relating to a fund for the benefit of confined persons and those of the central fund managed by the Service de la probation et des établissements de détention become the records and documents of the fund established for the benefit of the confined persons for whom they were kept and the central fund, respectively.

Coming into force **24.** This Act comes into force on the date fixed by the Government.