

NATIONAL ASSEMBLY
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1987, chapter 44

**AN ACT RESPECTING ADOPTION AND
AMENDING THE YOUTH PROTECTION ACT, THE
CIVIL CODE OF QUÉBEC
AND THE CODE OF CIVIL PROCEDURE**

Bill 21

Introduced by Madam Thérèse Lavoie-Roux, Minister of Health and Social Services

Introduced 2 April 1987

Passage in principle 12 June 1987

Passage 23 June 1987

Assented to 23 June 1987

Coming into force: on the date fixed by the Government

— 17 August 1987: ss. 1 to 17

G.O., 1987, Part 2, p. 3163

Acts amended:

Civil Code of Québec

Code of Civil Procedure (R.S.Q., chapter C-25)

Youth Protection Act (R.S.Q., chapter P-34.1)



Éditeur officiel
Québec



CHAPTER 44

An Act respecting adoption and amending the Youth Protection Act, the Civil Code of Québec and the Code of Civil Procedure

[Assented to 23 June 1987]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

C. C. Q.,
aa. 614.1-
614.4,
added

1. The Civil Code of Québec is amended by adding, after article 614, the following:

*“§ 5.—Special conditions respecting adoption
of a child domiciled outside Québec*

“614.1 No adoption of a child domiciled outside Québec by an adopter domiciled in Québec may take place unless the adopter submits an application for adoption to the director of youth protection, the latter examines the application and the adopter acts through the intermediary of the Minister of Health and Social Services.

“614.2 Where the adopter intends to adopt the child outside Québec, he shall previously apply to the court for approval of his plan. Where he intends to adopt the child in Québec, he shall apply to the court for an order of placement.

“614.3 The court, where called upon to approve the plan for adoption or to grant the order of placement, shall satisfy itself that the adopter has fulfilled the legal requirements in his regard and that the rules regarding consent to adoption and eligibility of the child for adoption are observed.

“614.4 Where the placement of the child or his adoption outside Québec is made under an agreement entered into by virtue of the Acts respecting youth protection, the court shall merely verify that the procedure followed is as provided in the agreement. In that case, the adoption outside Québec is not subject to prior approval by the court.”

C. C. Q.,
a. 617.1,
repealed

2. The said Code is amended by striking out article 617.1.

C. C. Q.,
a. 618, am.

3. Article 618 of the said Code is amended by adding, after the word “adopter” at the end of the first paragraph, the words “; it allows the child, for the term of the order, to exercise his civil rights under the given names and the surname chosen by the adopter and recorded in the order.”

C. C. Q.,
a. 622.1,
replaced

4. The said Code is amended by replacing article 622.1 by the following article:

“622.1 The court, where called upon to recognize an adoption judgment rendered outside Québec, shall satisfy itself that the judgment corresponds to the plan for adoption previously approved by it or, where such is the case, that the procedure followed is as provided in the agreement entered into by virtue of the Acts respecting youth protection.”

c. C-25,
a. 813.3,
am.

5. Article 813.3 of the Code of Civil Procedure (R.S.Q., chapter C-25) is amended by inserting, after the words “placement, adoption” in the fourth line, the words “, approval of a plan for adoption”.

c. C-25,
a. 823,
replaced

6. The said Code is amended by replacing article 823 by the following article:

“823. Applications in matters pertaining to the adoption of a minor must be served on the director of youth protection having jurisdiction in the child's place of residence or, in the case of the adoption of a child domiciled outside Québec, in the place where the adopter is domiciled.

The director may intervene of right in connection with such application.”

c. C-25, heading
replaced

7. The said Code is amended by replacing the heading of Section IV of Chapter VI of Title IV of Book V preceding article 825 by the following heading:

"APPLICATIONS FOR PLACEMENT,
APPROVAL OF PLANS FOR ADOPTION
AND ADOPTION".

c. C-25,
a. 825.1.1,
added

8. The said Code is amended by adding, after article 825.1, the following article:

"825.1.1 An application presented by an adopter domiciled in Québec for approval of a plan for adoption outside Québec must implead the Attorney General and be served on him not less than five days before the date of presentation of the application."

c. C-25,
a. 825.6.1,
added

9. The said Code is amended by adding, after article 825.6, the following article:

"825.6.1 The application for recognition of a judgment of adoption rendered outside Québec must be presented to the judge who approved the plan for adoption. If the judge is absent or otherwise unable to act, the application shall be presented to another judge of the court.

Where the adopter no longer lives in the district where the decision was rendered, the application may be brought before the court of his domicile or residence."

c. P-34.1,
s. 72.1.1,
added

10. The Youth Protection Act (R.S.Q., chapter P-34.1) is amended by inserting, after section 72.1, the following section:

Coordination
of activities

"72.1.1 The Minister of Health and Social Services shall, to ensure the respect of children's rights, coordinate the steps taken by adopters and the activities of persons who intervene in the adoption of children domiciled outside Québec.

Publication
of documents

For that purpose, the Minister may publish documents and give notice thereof in the *Gazette officielle du Québec*; the notice must indicate the nature of the documents and the place where they can be inspected."

c. P-34.1,
s. 72.2, am.

11. Section 72.2 of the said Act is amended by striking out the second paragraph.

c. P-34.1,
s. 72.3,
replaced

12. Section 72.3 of the said Act, amended by section 1 of chapter 104 of the statutes of 1986, is replaced by the following sections:

Intermediary
of Minister

"72.3 An adopter domiciled in Québec at the time of the adoption may adopt a child domiciled outside Québec only through the intermediary of the Minister of Health and Social Services.

Recognized
organization

The Minister may, for the purposes of the first paragraph, recognize an organization whose mission is to defend children's rights, promote their interests and improve their living conditions.

Standard
agreement

The recognized organization shall intervene only in accordance with the conditions, the modalities and the commitments it has made to the Minister in an agreement signed by them which contains, in addition to the proper clauses of the agreement, the clauses of the standard agreement approved by order of the Government.

Examination
of applica-
tions

"72.3.1 The director shall receive and study, as the need arises, applications for adoption of children domiciled outside Québec. Where a child is to be placed in Québec, the Minister shall take charge of him and see to his placement. In all cases, he shall intervene in accordance with the conditions and modalities prescribed by regulation."

c. P-34.1,
s. 132, am.

13. Section 132 of the said Act, amended by section 2 of chapter 104 of the statutes of 1986, is again amended, in subparagraph *g* of the first paragraph,

(1) by striking out the words "or a recognized organization" in the second line;

(2) by replacing the figure "72.3" in the third line by the figure "72.3.1".

c. P-34.1,
s. 135.1,
am.

14. Section 135.1 of the said Act, amended by section 3 of chapter 104 of the statutes of 1986, is again amended by replacing the word and figure "section 72.3" in the first and second lines of paragraph *d* by the words and figures "sections 72.3 and 72.3.1 and in articles 614.1 and 614.2 of the Civil Code of Québec".

Judgment
prior to 2
April 1987

15. The Youth Court, in accordance with the law in force on the day before the coming into force of this Act, may recognize an adoption judgment rendered outside Québec before 2 April 1987, even if the foreign law does not have the effect of creating a bond of filiation, replacing and dissolving the original bond of filiation, and as a result of which the object of the consent of the parents, where such is the case, is not to permit dissolution of the original bond of filiation, and even if the conditions relating to the intermediary of the Minister and to the assessment made by the director of youth protection have not been observed.

Child resi-
ding in
Québec

The first paragraph also applies to adoption judgments rendered outside Québec after 2 April 1987 where the child resided in Québec with the adopter on that date.

Judgment
after 2 April
1987

16. The Youth Court, in accordance with the law in force on the day before the coming into force of this Act, may recognize an adoption judgment rendered outside Québec after 2 April 1987 where, before the coming into force of this Act, the adopter has acted with the concurrence of the intermediary recognized by law and his application has been examined by the director of youth protection, even if the judgment did not have the effect of dissolving the original bond of filiation.

Coming into
force

17. This Act will come into force on the date fixed by the Government.