

NATIONAL ASSEMBLY

FIRST SESSION

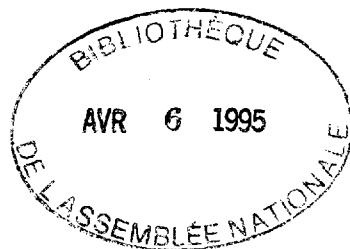
THIRTY-FIFTH LEGISLATURE

Bill 79

**An Act respecting the Commission
des droits de la personne et
de la protection des droits de la
jeunesse**

Introduction

**Introduced by
Mr Paul B  gin
Minister of Justice**



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EXPLANATORY NOTES

The object of this bill is to entrust to the Commission des droits de la personne the functions and powers currently devolving upon the Commission de protection des droits de la jeunesse.

To that end, the bill provides that the Commission will henceforth be known as the Commission des droits de la personne et de la protection des droits de la jeunesse and that four of the eleven members of the Commission, including the president and a vice-president, will be appointed from among individuals capable of making a notable contribution to the examination and resolution of problems relating to youth protection. The bill maintains all of the functions and powers exercised by the Commission de protection des droits de la jeunesse.

The bill also contains transitional and consequential amendments to allow its implementation.

LEGISLATION AMENDED BY THIS BILL:

- Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1);
- Charter of human rights and freedoms (R.S.Q., chapter C-12);
- Code of Civil Procedure (R.S.Q., chapter C-25);
- Labour Code (R.S.Q., chapter C-27);
- Youth Protection Act (R.S.Q., chapter P-34.1);
- Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (R.S.Q., chapter R-8.2);

– Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10);

– Act respecting the Civil Service Superannuation Plan (R.S.Q., chapter R-12).

Bill 79

An Act respecting the Commission des droits de la personne et de la protection des droits de la jeunesse

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHARTER OF HUMAN RIGHTS AND FREEDOMS

1. The heading of Part II of the Charter of human rights and freedoms (R.S.Q., chapter C-12) is replaced by the following heading:

“COMMISSION DES DROITS DE LA PERSONNE ET DE LA PROTECTION
DES DROITS DE LA JEUNESSE”.

2. Section 57 of the said Charter is amended by replacing the words “Commission des droits de la personne” in the second line by the words “Commission des droits de la personne et de la protection des droits de la jeunesse”.

3. Section 58 of the said Charter is replaced by the following sections:

“**58.** The commission shall be composed of eleven members, including the president and not more than two vice-presidents. Four of the members, including the president or a vice-president, shall be chosen from among persons capable of making a notable contribution to the examination and resolution of problems relating to youth protection.

The members of the commission shall be appointed by the National Assembly upon the motion of the Prime Minister. Such appointments must be approved by two-thirds of the Members of the National Assembly.

“58.1 The term of office of the members of the commission may not exceed ten years. Once determined, it shall not be reduced.”

4. Section 62 of the said Charter is amended by inserting the words “or children’s and young person’s rights, as the case may be,” after the word “freedoms” in the third line of the third paragraph.

5. Section 65 of the said Charter is amended by replacing the word “vice-president” in the first line by the word “vice-presidents”.

6. Section 67 of the said Charter is amended

(1) by inserting the words “designated by the Government” after the word “vice-president” in the first line;

(2) by replacing the words “, while he is called upon to replace the president, is himself absent or unable to act, or if the office of vice-president is vacant, the Government shall designate another member of the commission to replace him temporarily” in the third, fourth, fifth and sixth lines by the words “called upon to replace the president is himself absent or unable to act, or if that office is vacant, the other vice-president shall replace the president. Otherwise, the Government shall designate another member of the commission”.

7. Section 71 of the said Charter is amended by adding, at the end, the following paragraph:

“Moreover, the commission shall exercise the functions and powers entrusted to it by the Youth Protection Act (chapter P-34.1).”

YOUTH PROTECTION ACT

8. Section 1 of the Youth Protection Act (R.S.Q., chapter P-34.1), amended by section 23 of chapter 23 of the statutes of 1994 and by section 1 of chapter 35 of the statutes of 1994, is again amended by replacing subparagraph *a* of the first paragraph by the following subparagraph:

“(a) “Commission” means the Commission des droits de la personne et de la protection des droits de la jeunesse established by the Charter of human rights and freedoms (chapter C-12);”.

9. The heading of Division I of Chapter III of the said Act is replaced by the following:

“COMMISSION DES DROITS DE LA PERSONNE ET DE
LA PROTECTION DES DROITS DE LA JEUNESSE”.

10. Subdivision 1, comprising sections 12 to 22, and the heading of subdivision 2 of Division 1 of Chapter III of the said Act are repealed.

11. Section 23 of the said Act, amended by section 45 of chapter 51 of the statutes of 1993 and by section 50 of chapter 16 of the statutes of 1994, is again amended

(1) by replacing the word “an” in the first line of paragraph *b* by the words “a verbal or written”;

(2) by replacing paragraphs *e* and *f* by the following paragraph:

“(e) it may carry out or commission studies on any matter relating to children’s rights or make recommendations concerning such matters, particularly to the Minister of Health and Social Services, the Minister of Justice and the Minister of Education.”;

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

“Subject to the provisions of this Act, in particular where the Commission is of the opinion that the security or development of a child is or may be considered to be in danger, the provisions of Part II of the Charter of human rights and freedoms, adapted as required, apply to the exercise by the Commission of the responsibilities entrusted to it by this Act.”

12. Section 23.1 of the said Act is amended

(1) by replacing the words “the vice-president” in the fourth line of the first paragraph by the words “a vice-president”;

(2) by replacing the words “designated by him” in the second line of the second paragraph by the words “of the Commission or of its personnel designated by the president”.

13. Section 24 of the said Act is repealed.

14. Section 25.1 of the said Act is repealed.

15. Sections 28 to 30 of the said Act are repealed.

CONSEQUENTIAL AMENDMENTS

ACT RESPECTING ACCESS TO DOCUMENTS HELD BY PUBLIC BODIES AND THE
PROTECTION OF PERSONAL INFORMATION

16. Section 173 of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1) is amended by inserting the words “et de la protection des droits de la jeunesse” after the word “personne” in the first line.

CODE OF CIVIL PROCEDURE

17. Article 823.3 of the Code of Civil Procedure (R.S.Q., chapter C-25) is amended by replacing the first sentence by the following sentence: “The court must admit to its sittings any member of the Commission des droits de la personne et de la protection des droits de la jeunesse or any other person authorized by the Commission to be present thereat.”

LABOUR CODE

18. Section 111.0.3 of the Labour Code (R.S.Q., chapter C-27) is amended by replacing the words “ , the Office des personnes handicapées du Québec, the Commission de protection des droits de la jeunesse” in the second and third lines of subparagraph c of the second paragraph by the words “et de la protection des droits de la jeunesse, the Office des personnes handicapées du Québec”.

ACT RESPECTING THE PROCESS OF NEGOTIATION OF THE COLLECTIVE
AGREEMENTS IN THE PUBLIC AND PARAPUBLIC SECTORS

19. Schedule C to the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (R.S.Q., chapter R-8.2) is amended by replacing the words “Commission des droits de la personne” by the words “Commission des droits de la personne et de la protection des droits de la jeunesse”.

ACT RESPECTING THE GOVERNMENT AND PUBLIC EMPLOYEES RETIREMENT PLAN

20. Schedule I to the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10), amended by Orders in Council 1573-93 of 17 November 1993, 1728-93 of 8 December 1993, 555-94 of 20 April 1994, 1056-94 of 13 July 1994, 1321-94, 1322-94, 1323-94 and 1324-94 of 7 September 1994 and 1800-94 of 21 December 1994 and by sections 65 of chapter 40 of the statutes of 1993, 6 of chapter 50 of the statutes of 1993, 13 of chapter 74 of the statutes of 1993, 79 of chapter 2 of the statutes of 1994, 49 of

chapter 21 of the statutes of 1994 and 42 of chapter 27 of the statutes of 1994, is again amended by replacing the words "Commission des droits de la personne" by the words "Commission des droits de la personne et de la protection des droits de la jeunesse".

21. Schedule III.1 to the said Act, amended by section 23 of chapter 23 of the statutes of 1994, is again amended by replacing the words "Commission de protection des droits de la jeunesse" by the words "Commission des droits de la personne et de la protection des droits de la jeunesse".

ACT RESPECTING THE CIVIL SERVICE SUPERANNUATION PLAN

22. Schedule IV.1 to the Act respecting the Civil Service Superannuation Plan (R.S.Q., chapter R-12), amended by section 23 of chapter 23 of the statutes of 1994, is again amended by replacing the words "Commission de protection des droits de la jeunesse" by the words "Commission des droits de la personne et de la protection des droits de la jeunesse".

TRANSITIONAL AND FINAL PROVISIONS

23. The four new members of the Commission des droits de la personne et de la protection des droits de la jeunesse shall be appointed, in accordance with section 58 of the Charter of human rights and freedoms, from among the members of the Commission de protection des droits de la jeunesse in office on (*insert here the date preceding the date of coming into force of section 10*).

The appointment of each new member shall be valid for the remainder of his term of office as a member of the Commission de protection des droits de la jeunesse.

24. The employees, including the managerial personnel, of the Commission de protection des droits de la jeunesse shall become employees of the Commission des droits de la personne et de la protection des droits de la jeunesse, subject to the provisions of the collective agreements applicable to them, to the extent set out in the order in council providing for their transfer and provided that such order in council is made before (*insert here the date occurring one year after the date of coming into force of this section*).

Such employees shall have the positions and perform the duties assigned to them by the Commission des droits de la personne et de la protection des droits de la jeunesse, subject to the provisions of the collective agreements applicable to them.

25. Every employee transferred to the Commission des droits de la personne et de la protection des droits de la jeunesse under section 24 who, on the date of his transfer, was a public servant with permanent tenure may apply for a transfer to a position in the public service or enter a competition for promotion to such a position in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1).

Section 35 of the said Act applies to any employee referred to in the first paragraph who enters such a competition for promotion.

26. Where an employee referred to in section 25 applies for a transfer or enters a competition for promotion, he may require the Office des ressources humaines to give him an assessment of the classification that would be assigned to him in the public service. The assessment must take account of the classification of the employee in the public service on the date of his transfer, as well as the years of experience and the formal training acquired in the course of his employment with the Commission des droits de la personne et de la protection des droits de la jeunesse.

If the employee is transferred, the deputy-minister or the chief executive officer shall assign to him a classification compatible with the assessment referred to in the first paragraph.

If the employee is promoted, his new classification must take account of the criteria set out in the first paragraph.

27. If some or all the activities of the Commission des droits de la personne et de la protection des droits de la jeunesse are discontinued or if there is a shortage of work, an employee referred to in section 25 is entitled to be placed on reserve in the public service with the classification he had before he was transferred to the Commission des droits de la personne et de la protection des droits de la jeunesse.

In such a case, the Office des ressources humaines shall, where applicable, establish his classification taking account of the criteria set out in the first paragraph of section 26.

28. An employee placed on reserve pursuant to section 27 shall remain at the Commission des droits de la personne et de la protection des droits de la jeunesse until placed by the Office des ressources humaines.

29. Subject to the remedies available under a collective agreement, an employee referred to in section 25 who is dismissed may bring an appeal under section 33 of the Public Service Act.

30. The associations of employees certified in accordance with the provisions of Chapter IV of the Public Service Act that represented groups of employees on the date on which the employees were transferred pursuant to section 24 shall continue to represent those employees until the expiry of the collective agreements in force on the date of the transfer to the Commission des droits de la personne et de la protection des droits de la jeunesse.

The provisions of the collective agreements shall continue to apply to those employees of the Commission des droits de la personne et de la protection des droits de la jeunesse, so far as they are applicable to them, until their date of expiry.

31. A labour commissioner may, in accordance with section 46 of the Labour Code (R.S.Q., chapter C-27), rule on any matter relating to the transfer of the rights and obligations of the Commission de protection des droits de la jeunesse to the Commission des droits de la personne et de la protection des droits de la jeunesse.

32. The Commission des droits de la personne et de la protection des droits de la jeunesse shall acquire the rights and assume the obligations of the Commission de protection des droits de la jeunesse.

33. Proceedings to which the Commission de protection des droits de la jeunesse is a party shall be continued by the Commission des droits de la personne et de la protection des droits de la jeunesse without continuance of suit.

34. The property, records and documents of the Commission de protection des droits de la jeunesse shall become the property, records and documents of the Commission des droits de la personne et de la protection des droits de la jeunesse, except as otherwise determined by the Government.

35. The appropriations granted to the Commission de protection des droits de la jeunesse shall be transferred to the Commission des droits de la personne et de la protection des droits de la jeunesse to the extent determined by the Government.

36. In any text, unless the context indicates otherwise,

(1) a reference to the Commission de protection des droits de la jeunesse is a reference to the Commission des droits de la personne et de la protection des droits de la jeunesse;

(2) a reference to the Commission des droits de la personne is a reference to the Commission des droits de la personne et de la protection des droits de la jeunesse.

37. The provisions of this Act will come into force on the date or dates to be fixed by the Government.