



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-FIFTH LEGISLATURE

Bill 81

**An Act to amend the Act
respecting municipal courts, the
Courts of Justice Act and various
legislative provisions**

Introduction

**Introduced by
Mr Paul Bégin
Minister of Justice**



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EXPLANATORY NOTES

This bill makes various amendments pertaining to the jurisdiction or organization of certain courts of justice.

As a consequence, the bill provides that the municipal courts will be able on certain conditions to exercise their jurisdiction in penal matters involving persons under 18 years of age, although the municipal judge will be required to refer the case to a judge of the Court of Québec where the interest of the person so warrants.

As regards the Court of Québec, the bill proposes a restructuring of the organization of the Court, and consequently eliminates the two regional sections of the Court and one position of associate chief judge. It reduces the number of assistant chief judges and fixes the number of coordinating judges at ten. The functions exercised by these judges and by the chief judge are also modified.

The bill allows in addition for the appointment of a maximum of five associate coordinating judges and maintains the existing divisions of the Court and the rules relating to a judge's assignment to a division.

Lastly, the bill contains various consequential and transitional provisions.

LEGISLATION AMENDED BY THIS BILL:

- Act respecting insurance (R.S.Q., chapter A-32);
- Savings and Credit Unions Act (R.S.Q., chapter C-4.1);
- Highway Safety Code (R.S.Q., chapter C-24.2);
- Code of Penal Procedure (R.S.Q., chapter C-25.1);
- Companies Act (R.S.Q., chapter C-38);

- Act respecting municipal courts (R.S.Q., chapter C-72.01);
- Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2);
- Mining Act (R.S.Q., chapter M-13.1);
- Act respecting police organization (R.S.Q., chapter O-8.1);
- Act to preserve agricultural land (R.S.Q., chapter P-41.1);
- Act respecting trust companies and savings companies (R.S.Q., chapter S-29.01);
- Courts of Justice Act (R.S.Q., chapter T-16);
- Charter of the city of Montréal (1959-60, chapter 102);
- Charter of the city of Québec (1929, chapter 95).

Bill 81

An Act to amend the Act respecting municipal courts, the Courts of Justice Act and various legislative provisions

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING MUNICIPAL COURTS

1. Section 30 of the Act respecting municipal courts (R.S.Q., chapter C-72.01) is amended

(1) by replacing the words “exclusive jurisdiction of that Court over persons under 18 years of age” in the third and fourth lines by the words “second paragraph”;

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

“The Court may exercise any jurisdiction in penal matters recognized by law as a jurisdiction of the Court in respect of a person under 18 years of age if the person is not in the situation described in article 88 of the Code of Penal Procedure (chapter C-25.1). The municipal judge shall, furthermore, refer the case to a judge of the Court of Québec where the interest of the person warrants it.”

COURTS OF JUSTICE ACT

2. Section 5.5 of the Courts of Justice Act (R.S.Q., chapter T-16) is amended by striking out the words “, within their respective jurisdictions,” in the second line of the first paragraph.

3. Section 9 of the said Act is amended by replacing, in the French text, the words “avec compétence sur” in the second line of the first paragraph by the words “à l’égard de”.

4. Section 10 of the said Act is replaced, in the French text, by the following section:

10. La compétence accordée à la cour par l'article 9, comme tribunal d'appel, comporte l'attribution de tous les pouvoirs nécessaires pour lui donner effet."

5. Section 35 of the said Act is amended by replacing the words "cognizable by" in the sixth line by the words "within the jurisdiction of".

6. Section 80 of the said Act is amended

(1) by striking out the first paragraph;

(2) by replacing the words "Each regional section" in the first line of the second paragraph by the words "The Court of Québec".

7. Section 85 of the said Act is replaced by the following section:

85. The Court of Québec is composed of 290 judges, including the chief judge, the senior associate chief judge and three associate chief judges."

8. Section 86 of the said Act is amended by replacing the second sentence by the following sentence: "The notice of appointment of a judge shall determine, in particular, the judge's place of residence."

9. Section 89 of the said Act is amended by replacing the word "a" in the third line by the word "the".

10. Section 90 of the said Act is replaced by the following section:

90. The Government shall, by a commission under the Great Seal, appoint from among the judges of the Court, the chief judge and, after consultation with the latter, the senior associate chief judge and an associate chief judge for each division of the Court.

The chief judge and the senior associate chief judge shall reside in the city of Québec or in the immediate vicinity of that city, where they shall exercise their functions."

11. Section 91 of the said Act is amended by replacing the word "a" in the first line by the word "the".

12. Section 92 of the said Act is amended by replacing the word "a" in the first line of the first paragraph by the word "the".

13. Section 96 of the said Act is amended

(1) by replacing the words “, who must comply with his orders and directives in that regard” in the first and second lines of subparagraph 2 of the second paragraph by the words “and see to their complementary training; the judges must comply with his orders and directives”;

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

“In cooperation with coordinating judges, the functions of the chief judge shall also be

(1) to see to the allotment of cases and the scheduling of the sittings of the Court;

(2) to determine the duties and functions of a judge who is required to exercise his jurisdiction over matters that are not within the jurisdiction of the division to which he is assigned.”

14. Section 97 of the said Act is replaced by the following section:

“97. The senior associate chief judge shall assist and advise the chief judge in the exercise of his functions and shall exercise the functions of the chief judge under the authority of the latter.

The orders of the senior associate chief judge shall be executed in the same manner as those of the chief judge. The signature of the senior associate chief judge shall give force and effect to any document within the competence of the chief judge.”

15. Section 98 of the said Act is replaced by the following section:

“98. The associate chief judges shall assist the chief judge and shall act as advisors on the matters within the jurisdiction of the division to which they belong.

The chief judge shall determine the other functions which the associate chief judges shall exercise.”

16. Section 99 of the said Act is amended by striking out the words “having seniority of appointment to the Court” in the second line.

17. Section 100 of the said Act is amended

(1) by replacing the word “a” in the first line by the word “the”;

(2) by striking out the words “of the regional section concerned” in the second and third lines.

18. Section 101 of the said Act is amended by replacing the words “senior associate chief judge of the regional section concerned” in the first and second lines by the words “chief judge”.

19. Section 102 of the said Act is repealed.

20. Section 103 of the said Act is amended by replacing the first paragraph by the following paragraph:

“103. The chief judge shall, with the approval of the Government, designate ten coordinating judges from among the judges of the Court.”

21. Section 104 of the said Act is amended

(1) by replacing the word “two” in the first line by the word “three”;

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

“A coordinating judge shall remain in office, notwithstanding the expiry of his term of office, until he is replaced or designated for another term.”

22: Section 105 of the said Act is replaced by the following section:

“105. The coordinating judges shall advise the chief judge and assist him in his functions relating to

(1) the allotment of cases and the scheduling of the sittings of the Court;

(2) the duties and functions of judges.

The chief judge shall determine the other functions exercised by coordinating judges and the judicial districts under their responsibility.”

23. The said Act is amended by inserting, after section 105, the following sections:

"105.1 The coordinating judges shall submit to the chief judge, at least twice a year, a report of activities established on a monthly basis for each division and each judicial district and containing, in particular, the following particulars:

- (1) the number of days on which sittings were held and the average time devoted thereto;
- (2) the number of cases heard;
- (3) the backlog of cases.

"105.2 The chief judge may, with the approval of the Government, designate a maximum of five associate coordinating judges from among the judges of the Court, where circumstances so require.

In the same manner, the chief judge shall fix the term of office of each associate coordinating judge.

"105.3 The term of office of an associate coordinating judge shall not exceed two years, but may be renewed.

An associate coordinating judge shall remain in office, notwithstanding the expiry of his term of office, until he is replaced or designated for another term.

"105.4 The chief judge shall determine the functions exercised by the associate coordinating judges.

"105.5 Where a coordinating judge or an associate coordinating judge is absent or unable to act, the chief judge shall designate a judge to exercise the functions of the coordinating judge or associate coordinating judge, as the case may be, until the latter resumes his functions or is replaced."

24. Section 106 of the said Act is amended

- (1) by striking out the words "regional section and" in the second line of the first paragraph;

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

“At the request of the chief judge, a judge shall exercise the jurisdiction of the Court in matters that are not within the jurisdiction of the division to which he is assigned.”

25. Section 107 of the said Act is amended

(1) by striking out the first paragraph;

(2) by striking out the words “after consultation with the senior associate chief judge concerned” in the second line of the second paragraph.

26. Section 108 of the said Act is amended

(1) by striking out the words “the regional section assigned to him or” in the second line;

(2) by striking out the words “, who shall have previously consulted with the senior associate chief judges concerned” in the third and fourth lines.

27. Section 109 of the said Act is repealed.

28. Section 110 of the said Act is amended by striking out the last sentence.

29. Section 111 of the said Act is replaced by the following section:

“**111.** The chief judge may, where the administration of justice so requires, assign a judge to another division after the judge concerned has been given the opportunity to present his views in that respect.”

30. Section 113 of the said Act is replaced by the following section:

“**113.** The judge shall change his place of residence within one year after his notice of appointment is amended in that regard.”

31. Section 114 of the said Act is amended by replacing the words “the second paragraph of section 107 or under section 109 or” in the second and third lines by the words “section 107 or section”.

32. Section 115 of the said Act is amended by replacing the word “or” in the third line of the first paragraph by the words “, coordinating judge or associate”.

33. Section 117 of the said Act is amended

(1) by replacing the words “or a” in the first line by the words “, a coordinating judge or an associate”;

(2) by replacing the word “a” in the fifth line by the word “the”.

34. Section 120 of the said Act is amended by replacing the words “is required to change his place of residence” in the first and second lines by the words “changes his place of residence within the prescribed time”.

35. Section 121 of the said Act is amended

(1) by replacing the word “a” in the first line of the second paragraph by the word “the”;

(2) by inserting the words “, an associate coordinating judge” after the words “coordinating judge” in the second line of the second paragraph.

36. Section 122 of the said Act is amended by replacing the word “or” in the fourth line of the fourth paragraph by the words “, coordinating judge or associate”.

37. Section 137 of the said Act is amended

(1) by replacing the words “After consultation with the chief judge, the senior associate” in the first line by the word “The”;

(2) by striking out the words “within his jurisdiction” in the third line.

38. Section 141 of the said Act is amended by replacing the words “, the chief judge, a senior associate chief judge or an associate” in the third and fourth lines by the words “or by the”.

39. Section 146 of the said Act is amended by replacing the words “a senior associate” in the third line of the second paragraph by the word “the”.

40. Section 219 of the said Act, amended by section 706 of chapter 57 of the statutes of 1992 and section 618 of chapter 61 of the statutes of 1992, is again amended

(1) by striking out the words “prothonotary or” in the first line of subparagraph *b* of the first paragraph;

(2) by replacing, in the French text, the words “leur adjoint” in the first line of subparagraph *b* of the first paragraph by the words “son adjoint”.

41. Section 231 of the said Act is amended by replacing the word “or” in the seventh line of the second paragraph by the words “, coordinating judge or associate”.

42. Section 248 of the said Act is amended

(1) by replacing the figure “15” in the first line by the figure “14”;

(2) by replacing the words “two senior associate chief judges” in paragraph *b* by the words “senior associate chief judge”.

43. Section 252 of the said Act is amended by striking out the words “or in the City of Montréal, as the Government may decide” in the second and third lines of the third paragraph.

44. Section 269.2 of the said Act is amended by replacing the word “an” in the fourth line by the words “the senior”.

45. The said Act is amended by replacing, in the French text, the words “juridiction” and “juridictions” in sections 2 and 4.1, in the second paragraph of section 5.5, in the heading of Division II of Part I, in section 9, in the headings of Division I of Part II and of subdivision 1 of the said division, in sections 33 and 38, in subsection 1 of section 51, in the heading of Division II of Part II, in sections 70, 71, 72 and 78, in the heading of Division I of Part III, in sections 79, 81, 82 and 83, in the first paragraph of section 106 and in sections 146, 158 and 161 and in Schedule I by, respectively, the words “compétence” and “compétences”.

46. The said Act is amended

(1) by replacing the word “prothonotary” in sections 4 and 73 by the words “clerk of the Superior Court”;

(2) by replacing the words "prothonotary" and "prothonotaries" in sections 4.1 and 51, in the heading of subdivision 4 of Division I of Part II and in sections 54, 55 and 57 by, respectively, "clerk" and "clerks";

(3) by striking out the words "the prothonotary or" in the first line of section 5.1.

AMENDING PROVISIONS

47. Section 12 of the Act respecting insurance (R.S.Q., chapter A-32), amended by section 71 of chapter 61 of the statutes of 1992, is again amended by striking out the words "or assistant chief judge" in the third line of the second paragraph.

48. Section 496 of the Savings and Credit Unions Act (R.S.Q., chapter C-4.1) is amended by striking out the words "or associate chief judge" in the third line of the second paragraph.

49. Section 597 of the Highway Safety Code (R.S.Q., chapter C-24.2), replaced by section 162 of chapter 61 of the statutes of 1992, is amended by adding, at the end, the following paragraph:

"Where the municipality brings penal proceedings, the fine belongs to it."

50. Section 598 of the said Code is amended by adding, at the end, the following paragraph:

"The costs relating to proceedings brought before a municipal court belong to the municipality in which the court has jurisdiction, except any part of the costs remitted by the collector to another prosecuting party under article 366 of the Code of Penal Procedure (chapter C-25.1) and any costs remitted to the defendant or imposed on the municipality under article 223 of the said Code."

51. The Code of Penal Procedure (R.S.Q., chapter C-25.1) is amended by inserting, after article 194, the following article:

"194.1 No person shall publish or broadcast information allowing the identification of a person under 18 years of age against whom proceedings are brought or who is a witness in proceedings, except where communication of the information is required for the purposes of the administration of justice and the information is not disclosed to the public.

Furthermore, the judge may, in a special case, prohibit or restrict, on the conditions he fixes, the publication or broadcast of information relating to court proceedings brought against a person under 18 years of age.

Any person who contravenes a provision of the first paragraph is guilty of an offence and is liable to a fine of not less than \$625 nor more than \$5 000."

52. Section 101 of the Companies Act (R.S.Q., chapter C-38) is amended by striking out the words "having jurisdiction in the territory where the corporate seat of the company is situated" in the fifteenth and sixteenth lines of subsection 4.

53. Section 110 of the said Act is amended by striking out the words "having jurisdiction in the territory where the corporate seat of the company is situated" in the second and third lines of the third paragraph of subsection 8.

54. Section 203 of the said Act is amended by striking out the words "having jurisdiction in the territory where the corporate seat of the company is situated" in the second and third lines of the third paragraph of subsection 8.

55. Section 266 of the Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2) is amended by striking out the words "or the senior associate chief judge, as the case may be" in the third and fourth lines of the first paragraph.

56. Section 302 of the Mining Act (R.S.Q., chapter M-13.1) is amended by striking out the words "or the senior associate chief judge" in the second line.

57. Section 137 of the Act respecting police organization (R.S.Q., chapter O-8.1) is amended by striking out the words "and the senior associate chief judge, within the limits of their respective territorial jurisdictions" in the third and fourth lines.

58. Section 21.2 of the Act to preserve agricultural land (R.S.Q., chapter P-41.1) is amended by striking out the words "or the senior associate chief judge, each within the limits of his territorial jurisdiction" in the third and fourth lines.

59. Section 309 of the Act respecting trust companies and savings companies (R.S.Q., chapter S-29.01), amended by section 589 of chapter 61 of the statutes of 1992, is again amended by striking out the words "or associate chief judge" in the second paragraph.

60. Article 1121 of the Charter of the city of Montréal (1959-60, chapter 102), amended by section 1104 of chapter 4 of the statutes of 1990 and section 60 of chapter 82 of the statutes of 1993, is again amended by inserting, after the second paragraph, the following paragraph:

“The Court may exercise any jurisdiction in penal matters recognized by law as a jurisdiction of the Court in respect of a person under 18 years of age if the person is not in the situation described in article 88 of the Code of Penal Procedure (R.S.Q., chapter C-25.1). The municipal judge shall, furthermore, refer the case to a judge of the Court of Québec where the interest of the person warrants it.”

61. Section 598 of the Charter of the city of Québec (1929, chapter 95), amended by section 3 of chapter 52 of the statutes of 1952-53 and section 2 of chapter 85 of the statutes of 1966-67 and replaced by section 1214 of chapter 4 of the statutes of 1990, is again amended by adding, at the end, the following paragraph:

“The Court may exercise any jurisdiction in penal matters recognized by law as a jurisdiction of the Court in respect of a person under 18 years of age if the person is not in the situation described in article 88 of the Code of Penal Procedure (R.S.Q., chapter C-25.1). The municipal judge shall, furthermore, refer the case to a judge of the Court of Québec where the interest of the person warrants it.”

TRANSITIONAL AND FINAL PROVISIONS

62. The terms of office of the chief judge, senior associate chief judges, associate chief judges and coordinating judges shall end on 31 August 1995.

An associate chief judge whose term of office ends after 31 August 1995 shall continue to receive the additional remuneration to which he was entitled in that capacity until the end of his term of office.

At the end of that period, the associate chief judge shall be entitled to receive, until his salary as a judge of the Court of Québec is equal to the salary and additional remuneration he was receiving, the difference between that amount and his salary.

However, if additional remuneration is paid to such a judge under section 115 of the Courts of Justice Act (R.S.Q., chapter T-16), the amounts paid under this section shall be reduced correspondingly.

63. This Act will come into force on 1 September 1995.