



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FOURTH LEGISLATURE

Bill 194

An Act respecting the disclosure of inappropriate activities

Introduction

Introduced by
Mr Jean-Pierre Bélisle
Member for Mille-Îles

**Québec Official Publisher
1992**

EXPLANATORY NOTES

The object of this bill is to encourage the disclosure of any inappropriate activity of a public body or of an enterprise under contract with that public body by any person employed by a public body or bound by contract to the public body and by any person employed by an enterprise under contract with a public body.

The bill also sets out rules to protect the anonymity of the person who discloses such an activity as well as the confidentiality of the information disclosed.

Moreover, the bill provides that no public body may impose a sanction on a person it employs, on the ground that the person disclosed an inappropriate activity.

Bill 194

An Act respecting the disclosure of inappropriate activities

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

DIVISION I

INTERPRETATION

1. For the purposes of this Act, the following bodies are public bodies:

(1) the Government, its departments and the government agencies whose personnel is appointed or remunerated in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1);

(2) school boards, colleges, establishments, any body which is similar to a school board or classified as an establishment and government agencies to which the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (R.S.Q., chapter R-8.2) applies, as well as regional management boards and regional health and social service councils and the Conseil scolaire de l'Île de Montréal;

(3) any other body whose personnel is remunerated according to the standards and scales which are, by law, determined or approved by the Government, subject to its approval or stipulated in a collective agreement negotiated and agreed with the concurrence of the Government;

(4) any joint-stock company of which more than 50% of the voting shares are part of the public domain or are owned by a public body, a government agency or a government corporation;

(5) educational institutions at the university level referred to in paragraphs 1 to 11 of section 1 of the Act respecting educational institutions at the university level (R.S.Q., chapter E-14.1);

(6) institutions recognized for purposes of grants or declared to be of public interest under the Act respecting private education (R.S.Q., chapter E-9).

2. The National Assembly, persons designated by the National Assembly pursuant to an Act and persons designated by the Government pursuant to an Act and whose personnel is appointed or remunerated in accordance with the Public Service Act shall be regarded as public bodies.

DIVISION II

DISCLOSURE

3. Every person who is in the employ of a public body or who is bound by contract to the public body may, by means of a sworn statement sent under confidential cover to the proper parliamentary committee of the National Assembly, disclose any inappropriate activity of a public body.

Every person in the employ of an enterprise under contract with a public body may also, in the same manner, disclose any inappropriate activity of a public body.

4. Every institutional or individual decision, action or practice which endangers the health or the safety of the public, involves outlays and unjustified expenditures of public moneys or is contrary to law, owing in particular to a violation of the principles of economy, efficiency and effectiveness within the meaning of section 21 of the Auditor General Act (R.S.Q., chapter V-5.01), is considered an inappropriate activity.

5. The secretary of the parliamentary committee concerned is responsible for receiving the statement, taking every measure necessary to protect the anonymity of the person who made it as well as the confidentiality of the information disclosed by the person and informing him of any development concerning his statement while ensuring that his anonymity is protected at all times.

The Committee on the National Assembly may adopt any rule it deems necessary to protect anonymity and confidentiality.

6. The secretary shall, as soon as possible, bring the matter referred to in the statement to the attention of the chairman and vice-chairman of the parliamentary committee concerned for appropriate action.

7. If the chairman and vice-chairman of the parliamentary committee concerned so decide, the matter referred to in the statement shall be examined behind closed doors.

The committee may decide to hold public sittings to examine the inappropriate activity and, where necessary, may call before it any person or public body.

8. The committee shall report to the National Assembly.

DIVISION III

CONFIDENTIAL INFORMATION

9. All information obtained under this Act is confidential. No person shall use such information for any purpose not provided for by this Act, communicate such information or allow it to be communicated to a person not legally entitled thereto or allow such a person to examine a document containing such information or have access to it.

However, such information may, upon the written application of the person who provided the information or of his authorized representative, be communicated to a person designated in the application.

Notwithstanding any other Act, in the case of judicial proceedings other than criminal proceedings, no functionary, Member of the National Assembly or other person may be summoned or is authorized to testify in respect of any information obtained under this Act or to produce a document obtained, written or compiled under this Act.

10. For the purposes of section 9, a person or body mentioned in the second paragraph is entitled, to the extent provided, to examine the information obtained under this Act and the secretary of the parliamentary committee concerned may release the information or cause it to be released to such person or body.

The persons or bodies are:

(a) the Comptroller of Finance, in respect of any document concerning the financial commitments of a public body;

(b) the Conseil du trésor, in respect of any document concerning the expenses and financial commitments of a public body;

(c) the Auditor General, in respect of audits and inquiries necessary in the performance of his duties.

No information so obtained may be disclosed in any manner.

11. However, the parliamentary committee concerned may make public information obtained pursuant to this Act provided that the anonymity of the person who made the statement is protected.

DIVISION IV

MISCELLANEOUS PROVISIONS

12. No public body may dismiss, reprimand, suspend or transfer a person in its employ or bound by contract, practise discrimination or take reprisals against that person or impose any other sanction upon him on the ground that the person disclosed an inappropriate activity of the public body.

13. Any person who believes he has been the victim of a practice prohibited by section 12 may enforce his rights before a labour commissioner appointed under the Labour Code (R.S.Q., chapter C-27), in the same manner as if it were a case of the imposition of a sanction upon an employee by reason of the exercise by the employee of a right arising from the Labour Code. Sections 15 to 20, 118 to 137, 139, 139.1, 140, 146.1 and 150 to 152 of the Labour Code then apply, with the necessary changes.

14. Every person who contravenes this Act is liable to a fine of not more than \$25 000.

15. This Act comes into force on (*insert here the date of assent to this Act*).