



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-FOURTH LEGISLATURE

Bill 70

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

Introduction

**Introduced by
Mr Christos Sirros
Minister for Health and Social Services**



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EXPLANATORY NOTES

The object of this bill is to specify the requirements to be observed by adopters wishing to adopt children domiciled outside Québec and the roles of the various interveners in the process.

A further object of the bill is to allow the certification of an organization, on certain conditions, to carry out the steps with a view to adoption of a child domiciled outside Québec on behalf of the adopter.

The bill requires an adopter intending to adopt a child domiciled outside Québec to previously undergo a psychosocial assessment by the director of youth protection; where the adoption is to be granted by judicial decision outside Québec, it allows the assessment to be made by a professional chosen pursuant to the Youth Protection Act.

The bill provides that where the court is called upon to grant an order of placement or recognize an adoption judgment, it must satisfy itself that the rules respecting consent to adoption and eligibility for adoption, as well as the conditions imposed by law, have been observed. It also provides that even where the adopter has not complied with all the legal requirements, the court may grant an order of placement or recognize an adoption judgment for serious reasons, if the interest of the child demands it.

Lastly, the bill contains a transitional provision regarding the recognition of certain adoption judgments granted outside Québec before the date of its coming into force.

ACTS AMENDED BY THIS BILL:

- Civil Code of Québec;
- Code of Civil Procedure (R.S.Q., chapter C-25);
- Youth Protection Act (R.S.Q., chapter P-34.1).

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

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. The Civil Code of Québec is amended by replacing articles 614.1 to 614.3 by the following articles:

“614.1 Every person domiciled in Québec wishing to adopt a child domiciled outside Québec shall previously undergo a psychosocial assessment by the director of youth protection. Where the adoption is to be granted by judicial decision outside Québec, the assessment may be made by a professional chosen pursuant to the Youth Protection Act.

“614.2 The steps with a view to adoption shall be taken by the adopter or, at his request, by the Minister of Health and Social Services or a body certified under the Youth Protection Act.

Where the adopter elects to take the steps himself, he must consult the Minister, who shall verify, in the light of the information available to him, that the planned procedure contains no irregularities.

“614.3 Every foreign judicial decision granting adoption must be recognized in Québec.

Where adoption has not been granted by judicial decision outside Québec, it must be so granted in Québec. The judgment shall be preceded by an order of placement.”

2. Article 614.4 of the said Code is repealed.

3. Article 617 of the said Code is amended by adding the following paragraphs:

“The court shall, in addition, where the placement of a child domiciled outside Québec is made under an agreement entered into by virtue of the Youth Protection Act, verify that the procedure followed is as provided in the agreement.

Even if the adopter has not complied with the provisions of articles 614.1 and 614.2, the placement may be ordered for serious reasons if the interest of the child demands it. However, the application must be accompanied with a psychosocial assessment.”

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 rules respecting consent to adoption and eligibility for adoption have been observed.

The court shall, in addition, where the adoption judgment has been rendered outside Québec under an agreement entered into by virtue of the Youth Protection Act, verify that the procedure followed is as provided in the agreement.

Even if the adopter has not complied with the provisions of articles 614.1 and 614.2, recognition may be granted for serious reasons if the interest of the child demands it. However, the application must be accompanied with a psychosocial assessment.”

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

6. 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 AND ADOPTION”.

7. Article 825.1.1, enacted as article 825.0.1 in the version of Bill 21 of 1987 that was assented to, and article 825.6.1 of the said Code are repealed.

8. Section 72.1.1 of the Youth Protection Act (R.S.Q., chapter P-34.1) is replaced by the following section:

“72.1.1 The Minister of Health and Social Services shall advise adopters and certified bodies in order to facilitate the steps taken by them with a view to the adoption of a child domiciled outside Québec, particularly by informing them of the services available to them.

The Minister may also, at the request of the adopter, take the steps in his place.”

9. The said Act is amended by replacing section 72.3 by the following section:

“72.3 For the purposes of article 614.1 of the Civil Code of Québec, the psychosocial assessment of a person wishing to adopt a child domiciled outside Québec may be made, at the expense of the adopter, by a member of the Corporation professionnelle des psychologues du Québec or the Corporation professionnelle des travailleurs sociaux du Québec, chosen by the adopter from a list of names supplied by these corporations and transmitted to the Minister.

The psychosocial assessment shall deal in particular with the capacity of the adopters to meet the physical, psychological and social needs of the child and shall be made on the basis of criteria agreed between the two professional corporations and the directors of youth protection. A list of the places where the criteria serving as the basis of assessment are available shall be published in the *Gazette officielle du Québec*.”

10. The said Act is amended by inserting, after section 72.3.1, the following sections:

“72.3.2 Where the adopter elects to take the steps himself with a view to adoption of a child domiciled outside Québec, pursuant to article 614.2 of the Civil Code of Québec, the Minister shall verify that, in the light of the information available to him, the planned procedure contains no irregularities. He shall, where necessary, consult the competent authorities in Québec or in the State of domicile of the child.

“72.3.3 The Minister may, subject to the conditions prescribed by order published in the *Gazette officielle du Québec*, and subject to any other conditions he considers necessary to ensure compliance with the provisions respecting adoption of a child domiciled outside Québec, grant, upon application, permanent or temporary certification to an organization whose mission is to defend children’s rights, promote their interests and improve their living conditions, so that it may take the steps with a view to adoption on behalf of the adopter.

“72.3.4 The Minister may suspend or revoke certification if the certified organization fails to comply with its obligations.

“72.3.5 Except in urgent cases, the Minister shall allow an organization to make representations before refusing to grant it certification or suspending or revoking its certification. The decision of the Minister must be in writing and give reasons. A certified copy of the decision shall be transmitted to the organization.

“72.3.6 Any organization whose certification has been suspended or revoked may appeal to the court by motion within thirty days from receipt by the organization of the decision appealed from. The decision may be overturned if the grounds of law or fact invoked therein are manifestly erroneous or the procedure followed is seriously irregular.

The motion shall be heard and decided by preference; no appeal lies from the decision.

The appeal does not suspend execution of the decision of the Minister, unless the court decides otherwise.

The decision of the court must be in writing and give reasons. The clerk shall transmit a copy of the decision to each of the parties.”

11. Section 135.1 of the said Act, amended by section 692 of chapter 4 of the statutes of 1990, is again amended by striking out paragraph *d*.

12. The said Act is amended by inserting, after section 135.1, the following sections:

“135.1.1 No person other than an organization certified by the Minister for the purposes of the provisions of this Act respecting adoption of a child domiciled outside Québec may cause to enter or contribute toward causing to enter Québec a child domiciled outside Québec with a view to adoption of the child by a third person.

“135.1.2 No person may falsely represent himself to be a certified organization or falsely lead to the belief that an organization is certified by the Minister for the purposes of the provisions of this Act respecting adoption of a child domiciled outside Québec.

“135.1.3 Every person who contravenes any provision of section 135.1.1 or 135.1.2 is guilty of an offence and is liable to a fine of \$2 000 to \$5 000 in the case of an individual or to \$5 000 to \$10 000 in the case of a corporation.

Where a corporation is guilty of an offence described in this section, every director or officer of the corporation who knowingly authorized or advised the perpetration of the offence is guilty of an offence and is liable to a fine of \$2 000 to \$5 000."

13. Section 135.2 of the said Act, amended by section 693 of chapter 4 of the statutes of 1990, is again amended by adding the word and figure "to 135.1.3" after the figure "135" in the third line.

14. The court may, for serious reasons and if the interest of the child demands it, recognize an adoption judgment rendered outside Québec before (*insert here the date of coming into force of this Act*) even if the conditions fixed by law applicable on (*insert here the date preceding that of the coming into force of this Act*) respecting the intermediation of the Minister of Health and Social Services, examination of the application of the adopter by the director of youth protection and prior approval of the adoption plan by the court have not been observed. However, the motion must be accompanied with a psychosocial assessment of the adopter.

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