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# NATIONAL ASSEMBLY

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SECOND SESSION

THIRTY-THIRD LEGISLATURE

Bill 4

**An Act to amend the Civil Code  
and the Code of Civil Procedure as  
to separation from bed and board**

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**Introduction**

**Introduced by  
Mr Herbert Marx  
Minister of Justice**

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**Québec Official Publisher  
1988**

EXPLANATORY NOTE

*This bill amends the Civil Code of Québec and the Code of Civil Procedure to give the parties to a joint application for separation from bed and board according to a draft agreement the option of giving testimony out of court.*

ACTS AMENDED BY THIS BILL:

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

## Bill 4

### **An Act to amend the Civil Code and the Code of Civil Procedure as to separation from bed and board**

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

**1.** Article 527 of the Civil Code of Québec is amended by replacing the second paragraph by the following paragraph:

“The court then grants the separation if it is satisfied that the spouses truly consent and that the agreement sufficiently preserves the interests of each of them and of the children.”

**2.** Article 528 of the said Code is amended by replacing the first paragraph by the following paragraph:

“**528.** At all stages of proceedings for separation as to bed and board, it comes within the role of the court to see to the interests of the children and, where appropriate, to counsel and to foster the conciliation of the spouses.”

**3.** Article 404 of the Code of Civil Procedure (R.S.Q., chapter C-25) is amended

(1) by striking out the words “before a person authorized to administer the oath” in the third line of the first paragraph;

(2) by inserting, after the first paragraph, the following paragraph:

“Depositions must in that case be made by way of affidavits sufficiently detailed to establish all the facts necessary to support the conclusions sought or be taken down by stenography or in handwriting

before a person authorized to administer oaths and be filed in the record to have the same force and effect as if they had been taken at the hearing.”

**4.** Article 822.2 of the said Code is replaced by the following article:

**“822.2** The judge presiding at court may, before examining the final draft agreement and after ascertaining the admissibility of the application, direct that the clauses of the provisional covenant which appear to him to be contrary to the interests of the children be deleted or amended.

The judge may also, if he considers it necessary to verify that the spouses truly consent, convene and hear them, even separately, in the presence of their attorneys, if such is the case.”

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