



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-THIRD LEGISLATURE

Bill 150

An Act to amend the Act respecting child day care

Introduction

**Introduced by
Madam Monique Gagnon-Tremblay
Minister for the Status of Women**

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EXPLANATORY NOTES

This bill amends the Act respecting child day care, and more particularly, it amends the definitions of day care centre, stop over centre and nursery school in order to render a permit necessary where day care is provided to seven or more children. The definition of home day care is amended to authorize a person providing home day care to receive, alone, up to six children and the definition of nursery school is clarified.

In addition, the bill fixes at 150 the maximum number of children to whom day care may be provided through a home day care agency, provides that a home day care agency permit will indicate the territory where the agency may operate, and specifies the manner in which such maximum number and such territory will be determined.

The bill defines the role and operation of the advisory committee of parents which must be established by certain permit holder and establishes restrictions concerning the membership of parents who are also staff members on the committee or on the board of directors of a non-profit corporation composed of a majority of parents.

New rules concerning the issue of permits, applications to relocate or to increase services, and transfers of permit are introduced to enable the bureau to make its decisions with reference to its annual development plan.

The bill also provides for the granting of financial assistance to encourage innovation in the field of child day care and permits the granting of subsidies to school boards which provide school day care, to day care centres, whether profit-oriented or not, that are not administered by parents, and to nursery schools.

Moreover, the bill confers on the bureau the power to make regulations whereby a permit holder will be required, to the extent provided for, to retain the services of a person to be in charge of the management of the day care service or agency.

The bill also contains provisions designed to facilitate the recovery of sums due either through unauthorized exemptions or overpayment and provides for a right to request a review of a decision by the bureau before an appeal is made to the Commission des affaires sociales.

Finally, the bill contains concordance provisions and transitional measures.

ACTS AMENDED BY THIS BILL:

- Act respecting child day care (R.S.Q., chapter S-4.1);
- Education Act (1988, chapter 84).

Bill 150

An Act to amend the Act respecting child day care

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 1 of the Act respecting child day care (R.S.Q., chapter S-4.1), amended by section 678 of chapter 84 of the statutes of 1988, is again amended

(1) by replacing the word “ten” in the first line of the definition of “day care centre” by the word “seven”;

(2) by replacing the word “ten” in the second line of the definition of “stop over centre” by the word “seven”;

(3) by replacing the definitions of “nursery school” and “home day care” by the following definitions:

“nursery school” means an establishment that receives, on a regular basis for day care, at least seven children from two to five years of age, for periods of up to four hours a day, in steady groups to which activities carried on over a fixed period are offered;

“home day care” means day care provided for a consideration in a private residence by a natural person, for periods which may exceed 24 consecutive hours,

(1) to up to six children including the person’s children, among whom not more than two may be under the age of 18 months; or

(2) if the person is assisted by another person, to up to nine children including the children of both, among whom not more than four may be under the age of 18 months;”;

(4) by replacing the words “attending classes and receiving educational services in kindergarten and primary grades” in the

second and third lines of the definition of “school day care” by the words “receiving preschool education and elementary instruction”.

2. Section 4 of the said Act, amended by section 678 of chapter 84 of the statutes of 1988, is again amended by replacing the words “of children who are or will be registered at that centre” in the second and third lines of subparagraph 2 of the first paragraph by the words “who are not members of the staff of the day care centre and whose children are or will be registered at that centre”.

3. Section 5 of the said Act, enacted by section 5 of chapter 85 of the statutes of 1979 and amended by section 318 of chapter 26 of the statutes of 1982, is again amended by replacing the words “of children who are or will be registered at that nursery school” in the second and third lines of subparagraph 2 of the first paragraph by the words “who are not members of the staff of the nursery school and whose children are or will be registered at that nursery school”.

4. Section 7 of the said Act, amended by section 678 of chapter 84 of the statutes of 1988, is again amended by adding, after the second paragraph, the following paragraph:

“No holder of a home day care agency permit may hold more than one permit issued under this section.”

5. Section 8 of the said Act is replaced by the following section:

“8. A natural person who provides day care for a consideration in a private residence, for periods which may exceed 24 consecutive hours,

(1) to up to six children including the person’s children, among whom not more than two may be under the age of 18 months; or

(2) if the person is assisted by another person, to up to six children including the children of both, among whom not more than four may be under the age of 18 months,

may be recognized as a person responsible for home day care by the holder of a home day care agency permit, in the manner determined by regulation.

A person who provides day care for a consideration in a private residence for periods that may exceed 24 consecutive hours, while being assisted by another person, to not less than seven nor more than nine children including the children of both, among whom not more

than four may be under the age of 18 months, must be recognized as a person responsible for home day care by the holder of a home day care agency permit, in the manner determined by regulation.

To be so recognized, the person must fulfil the other conditions provided by this Act and the regulations; moreover, he shall undertake to provide the children with day care and with a programme of activities to promote their physical, intellectual, emotional, social and moral development and shall submit to the control and supervision of the holder of the home day care agency permit who has recognized him."

6. Section 10 of the said Act is amended

(1) by replacing the words "five persons elected by and from among the parents of children who are or will be registered at the day care centre or nursery school" in the third, fourth and fifth lines of the first paragraph by the words "parents composed of five persons who are not members of the staff of the day care centre or nursery school, elected by and from among the parents of children received by the day care centre or nursery school";

(2) by replacing the words "committee referred to in the first paragraph must be consulted" in the first line of the second paragraph by the words "permit holder shall consult the committee";

(3) by replacing the words "five persons elected by and from among the parents of children who are or will" in the second and third lines of the third paragraph by the words "parents composed of five persons who are not members of the staff of the home day care agency, elected by and from among the parents of children who are" and by replacing the words "That committee must be consulted" in the fourth line of the same paragraph by the words "The permit holder shall consult the committee";

(4) by adding, at the end of the third paragraph, the following sentence: "However, the permit holder is not required to form such a committee where its board of directors is composed in the majority of parents who are not members of the staff of the home day care agency where the children are received by the persons the permit holder has recognized as persons responsible for home day care."

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

"10.1 Within three months after the issue of his permit and, subsequently, every year before 15 October, every permit holder who

is required, under section 10, to form a parents committee shall, by way of written notice, call a meeting of all the parents of children who are received by the day care centre or nursery school or by the persons the permit holder has recognized as persons responsible for home day care so that they may elect their representatives to the parents committee.

“10.2 The permit holder shall call meetings of the committee as often as the functions of the committee require but not less than four times a year.

He shall give not less than five day's notice in writing to all the committee members of the date, time and place of every meeting.

“10.3 Where a vacancy occurs on the committee, the permit holder shall call a meeting of the committee so that it may fill the vacancy by appointing to the vacant seat a person who is not a member of the staff of the day care centre, nursery school or home day care agency, chosen from among the parents of children who are received by the day care centre or nursery school or by the persons the permit holder has recognized as persons responsible for home day care.

“10.4 The committee shall choose a chairman and a secretary from among its members.

The chairman shall preside the meetings of the committee and the secretary shall keep the minutes.

Three members are a quorum at meetings of the committee.

The permit holder shall comply with any other rule governing the operation of the committee which the bureau may determine by regulation.

“10.5 The permit holder shall inform in writing all the parents of children who are received by the day care centre or nursery school or by the persons the permit holder has recognized as persons responsible for home day care of the names of the committee members and, before every meeting of the committee, of the date, time and place of the meeting and the matters on the agenda.

“10.6 The permit holder shall keep on the premises of the day care centre, nursery school or home day care agency, every document relating to the committee and permitting to ascertain compliance with sections 10 to 10.5, including the notices and minutes of meetings.

“10.7 Every permit holder contemplated in subparagraph 5 of the first paragraph of section 4 must obtain the approval of the

committee as to the purposes for which he applies to the bureau for a grant, where proof of the approval is required by the regulations made under section 31.

10.8 No member of a parents committee may be sued for any act done in good faith in the performance of his duties.”

8. Section 11 of the said Act is amended by replacing the third paragraph by the following paragraphs:

“A home day care agency permit shall indicate the name and address of the permit holder, the name and address of the home day care agency, the maximum number of children, not over 150, that may be received by all the persons recognized as persons responsible for home day care and the territory in which the permit holder is authorized to act.

The bureau shall determine the maximum number of children, not over 150, and the territory to be indicated in the permit, according to the development plan established pursuant to section 68.1 and taking into account, among other factors, the permit applications and applications for authorization made under section 17.1 in respect of which the bureau has yet to render a decision. No decision made by the bureau under this paragraph may be regarded as a decision of the bureau to refuse to issue or renew a permit.”

9. Section 11.1 of the said Act is amended

(1) by inserting, after the second paragraph, the following paragraph:

“In no case may the holder of a nursery school permit receive children for periods exceeding four hours a day.”;

(2) by replacing the words “permit holder of a home day care agency” in the first line of the third paragraph by the words “holder of a home day care agency permit” and by adding, at the end of the same paragraph, the following sentence: “Nor may he act as a home day care agency elsewhere than in the territory indicated in his permit.”

10. Section 15 of the said Act is amended by striking out the words “except with the written authorization of the bureau” in the first and second lines.

11. Section 17 of the said Act is replaced by the following sections:

“17. In no case may the holder of a day care centre permit, a nursery school permit or a stop over centre permit carry on the activities for which the permit was issued to him elsewhere than at the address indicated in his permit.

However, in exceptional circumstances, the bureau may, in writing, authorize the permit holder to carry on his activities temporarily elsewhere than at that address, provided he applies therefor in writing and fulfills the other requirements prescribed by regulation.

The authorization, which may be renewed, shall indicate the period for which it is granted, which period must not extend beyond the date of expiry of the permit.

The first paragraph does not prevent organized outings as part of the programme of activities provided to the children by the permit holder.

“17.1 The holder of a day care centre permit, nursery school permit or stop over centre permit must obtain authorization in writing from the bureau

(1) before acquiring or renting premises with a view to relocating permanently, thus changing the address indicated in his permit;

(2) to increase the maximum number of children he may receive indicated in his permit.

The permit holder shall apply in writing for the authorization and the bureau shall render its decision within 30 days of the application.

The bureau may refuse to grant its authorization where, in its opinion, the relocation or, as the case may be, the increase in the maximum number of children the permit holder may receive is inconsistent with the development plan established pursuant to section 68.1, taking into account, among other factors, the permit applications and applications for authorization under the first paragraph and in respect of which the bureau has yet to render a decision.

No decision of the bureau to refuse its authorization may be regarded as a decision of the bureau to refuse to issue or renew a permit.

“17.2 A permit holder whose application for authorization under section 17.1 is granted shall submit to the bureau for approval

the plans, signed and sealed by an architect, of the premises he wishes to acquire or rent or of any alteration to the premises, affecting any element governed by the arrangement or the layout, heating or lighting standards prescribed under subparagraph 2 of the first paragraph of section 73, rendered necessary by the increase in the maximum number of children.

The bureau, which is required to render its decision within 60 days of receipt of the plans, may refuse to approve them if they are not in conformity with the arrangement or the layout, heating or lighting standards prescribed under subparagraph 2 of the first paragraph of section 73.

The permit holder shall carry out the work in conformity with the plans approved by the bureau.

17.3 The holder of a day care centre permit, nursery school permit or stop over centre permit shall, before making alterations to his premises, other than the alterations referred to in section 17.2, affecting any element governed by the arrangement or layout, heating or lighting standards prescribed under subparagraph 2 of the first paragraph of section 73, submit to the bureau for approval the plans of the alterations, signed and sealed by an architect if they involve architectural changes.

The bureau, which is required to render its decision within 60 days of receipt of the plans, shall approve them if they are in conformity with the said standards.

The permit holder shall carry out the work in conformity with the plans approved by the bureau.”

12. The said Act is amended by inserting, after section 18, the following section:

18.1 The bureau may refuse to issue a permit where

(1) in its opinion, to issue the permit would be inconsistent with the development plan established pursuant to section 68.1, taking into account, among other factors, the permit applications and applications for authorization made under section 17.1 in respect of which the bureau has yet to render a decision;

(2) the applicant fails to fulfil the conditions provided by this Act or the regulations for the issue of a permit;

(3) the health, safety or well-being of the children to whom the applicant proposes to provide day care in a day care centre, nursery school or stop over centre is endangered;

(4) the applicant was found guilty, in the two years preceding his application for a permit, of an offence for a contravention of section 3;

(5) the applicant made a false declaration or distorted a material fact when he applied for the permit.”

13. Section 19 of the said Act is amended

(1) by striking out the words “to issue or” in the first line;

(2) by striking out the words “applicant or” in the first line of paragraph 4.

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

“**20.** Before refusing to issue a permit on a ground other than the ground set out in paragraph 1 of section 18.1 or before suspending, cancelling or refusing to renew a permit, the bureau shall give the applicant or holder an opportunity to be heard.”

15. Section 31 of the said Act is amended

(1) by striking out the words and figures “contemplated in paragraphs 1, 2, 3 and 4 of section 4” in the first and second lines of paragraph 1;

(2) by adding, after paragraph 3, the following paragraphs:

“(4) to the holder of a nursery school permit contemplated by paragraph 1, 2 or 3 of section 5;

“(5) to a person, a school board, a municipality, a public establishment within the meaning of the Act respecting health services and social services or a body or agency, with a view to permitting or promoting experimentation, development or innovation in child care services.”;

(3) by adding, after the first paragraph, the following paragraph:

“In its regulations, the bureau may require that the holder of a day care centre permit contemplated by subparagraph 5 of the first

paragraph of section 4 furnish proof of the parents committee's approval as to the purposes for which he applies to the bureau for a grant."

16. Section 32 of the said Act, enacted by section 673 of chapter 84 of the statutes of 1988, is amended by replacing the words "attending classes and receiving educational services in kindergarten and primary grades" in the second and third lines of the first paragraph by the words "receiving preschool education and elementary instruction".

17. The said Act is amended by inserting, after section 33, the following section:

"33.1 The bureau may, according to the cases, terms, conditions and circumstances determined by regulation, give grants to a school board which organizes school day care services."

18. The said Act is amended by inserting, after section 41.1, the following sections:

"41.2 Every person exempted under section 40 and every person contemplated by paragraphs 1 to 3 of section 41 who, without being entitled thereto, received, directly or indirectly, any sum of money under section 40 or 41 shall repay that sum of money to the bureau in the cases and in accordance with the terms and conditions determined by regulation.

The bureau may, by regulation, determine the cases, circumstances, terms and conditions in or according to which any sum due may be deducted from any future financial assistance payment.

"41.3 Any person who believes he has been wronged by a decision of the bureau concerning an exemption from the payment of contribution requested in accordance with section 40 may apply to the bureau for a review of the decision.

"41.4 Every application for review of a decision shall be made in writing within 90 days after the date on which the person was notified of the decision.

The bureau may grant an extension to the person who establishes that circumstances prevented him from acting sooner.

Every application for review shall contain a brief statement of the grounds invoked.

“41.5 On receipt of the application for review, the bureau shall verify the facts and circumstances of the case and examine the grounds invoked, and shall render a decision in writing, accompanied with reasons, within 30 days after receipt of the application.

The decision shall be transmitted to the person who applied for a review within 15 days from the date on which the decision was made.”

19. Section 42 of the said Act is amended by replacing that part of the first paragraph which precedes subparagraph 1 by the following:

“42. Any applicant whose application for a permit is refused on a ground other than the ground set out in paragraph 1 of section 18.1 and any permit holder whose permit is suspended, cancelled or not renewed may appeal from the decision of the bureau to the Commission des affaires sociales,”.

20. Section 45 of the said Act is amended by replacing the first paragraph by the following paragraph:

“45. Every person who believes he has been wronged by a decision made under section 41.5 may appeal from the decision to the Commission des affaires sociales.”

21. Section 68 of the said Act is amended by striking out subparagraphs 1 and 9 of the second paragraph.

22. The said Act is amended by inserting, after section 68, the following section:

“68.1 Each year, the bureau shall prepare a plan for the development of resources to be made available to meet such priorities and needs of the population as are identified through consultations with interested persons and bodies.

The plan is approved by the Conseil du trésor.”

23. Section 73 of the said Act, amended by section 676 of chapter 84 of the statutes of 1988, is again amended

(1) by inserting, after subparagraph 6 of the first paragraph, the following subparagraph:

“(6.1) prescribing the requirements that must be fulfilled by the holder of a day care centre permit, a nursery school permit, or a stop

over centre permit who is requesting authorization to carry on temporarily the activities for which a permit was issued to him elsewhere than at the address indicated on his permit;”;

(2) by inserting, after subparagraph 10 of the first paragraph, the following subparagraph:

“(10.1) determining the rules governing the operation of the parents committee established under section 10;”;

(3) by replacing subparagraph 15 of the first paragraph by the following subparagraph:

“(15) determining the cases, conditions, circumstances and terms in or according to which grants may be made to a permit holder, a person, a school board, a municipality or a public establishment or an agency mentioned or referred to in paragraphs 1 to 5 of section 31, or to a school board under section 33.1;”;

(4) by replacing the words “attending classes and receiving educational services in the kindergarten and primary grades” in the third, fourth and fifth lines of subparagraph 16 of the first paragraph by the words “receiving preschool education and elementary instruction”;

(5) by inserting, after subparagraph 16 of the first paragraph, the following subparagraph:

“(16.1) requiring that the holder of a permit have in his employ a person responsible for the management of the day care centre, nursery school, stop over centre or home day care agency, and determining the duties of that person;”;

(6) by inserting, after subparagraph 22 of the first paragraph, the following subparagraph:

“(22.1) determining the cases, terms and conditions in or according to which a person exempted under section 40 or a person contemplated by paragraphs 1 to 3 of section 41 who received, directly or indirectly, under section 40 or 41, a sum of money to which he was not entitled, is required to repay that sum of money, and determining the cases, circumstances, terms and conditions in or according to which the sum may be deducted from any future financial assistance payment;”;

(7) by replacing the second and third paragraphs by the following paragraph:

“Every regulation of the bureau shall be submitted to the Government which may amend it before granting its approval.”

24. The provisions enacted by this Act are applicable to applications for permits, applications for a permanent change in the address indicated in a permit, and applications for an increase in the maximum number of children indicated in a permit filed before 1 July 1989 and in respect of which the bureau has yet to render a decision.

25. Notwithstanding the fourth paragraph of section 11 of the Act respecting child day care, enacted by section 8, the maximum number of children that may be received by all the persons recognized as persons responsible for home day care by the holder of a home day care agency permit issued before 1 July 1989, as indicated in that permit, may remain unchanged provided the conditions provided by the Act respecting child day care and the regulations thereunder are complied with.

26. On or before 31 December 1989, the bureau shall amend any home day care agency permit issued before 1 July 1989 to indicate therein the territory in which the holder is authorized to act, in accordance with the new provisions of section 11 of the Act respecting child day care enacted by section 8.

The holder of the permit shall comply with the provisions of the Act respecting child day care and the regulations thereunder in respect of such territory, within six months of the date of an amendment under the first paragraph.

27. Section 256 of the Education Act (1988, chapter 84) is amended by adding the words “and receive, for such purposes, any grant that may be made to it under the said Act” at the end of the first paragraph.

28. From 1 July 1989 to 30 June 1991, the definition of the expression “nursery school” in section 1 of the Act respecting child day care shall read as follows:

““nursery school” means an establishment that receives at least ten children from two to five years of age on a regular basis for day care, for periods not exceeding 4 hours a day, in regular groups to whom activities carried on over a fixed period are offered;”.

29. The provisions of this Act come into force on 1 July 1989, except

(1) the provisions enacted by paragraphs 1 and 2 of section 1, the definition of the expression “nursery school” enacted by paragraph 3 of the said section and the provisions enacted by section 5, which come into force on 1 July 1991;

(2) the provisions enacted by section 2, which come into force on 1 July 1990;

(3) the provisions enacted by section 3, which come into force on the date of coming into force of section 5 of the Act respecting child day care.