



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-THIRD LEGISLATURE

Bill 154

**An Act to amend the Act respecting
Access to documents held by public
bodies and the Protection of
personal information and the Act
respecting income security**

Introduction

**Introduced by
Mr Robert Dutil
Minister of Communications**



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EXPLANATORY NOTES

This bill proposes various amendments to the Act respecting Access to documents held by public bodies and the Protection of personal information.

It clarifies certain provisions regarding agencies subject to the Act.

It allows the Government to designate public bodies which must refuse to disclose certain information obtained through their internal security services.

The bill also provides that a person involved in an incident that has been the subject of a report of incident by a police force will be able, on certain conditions, to obtain information concerning the identity of other persons involved in that incident.

It provides, in addition, that persons employed by public bodies with which files respecting adoption are deposited need not indicate the use to which information they obtain for the purposes of a file respecting adoption will be put or the categories of persons who will have access to this information.

Another amendment is introduced for the object of ensuring that every person is entitled to receive communication of an opinion or recommendation concerning him which is held by a public body, from the moment that that body has rendered a final decision on the matter being the subject of the opinion or recommendation.

Other provisions of this bill regard the execution of decisions of the Commission d'accès à l'information and the rules concerning appeal from such decisions.

The bill makes further amendments respecting, in particular, the procedure of registration of examination of information files and the release of information required for carrying out a mandate received from a public body.

Lastly, the bill amends the Act respecting income security to allow an exception to the Act respecting Access to documents held by public bodies and the Protection of personal information in order to ensure that the identity of a person who receives a benefit by a discretionary decision of the Minister of Manpower and Income Security remains confidential.

Bill 154

An Act to amend the Act respecting Access to documents held by public bodies and the Protection of personal information and the Act respecting income security

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING ACCESS TO DOCUMENTS HELD BY PUBLIC BODIES AND THE PROTECTION OF PERSONAL INFORMATION

1. Section 4 of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1) is amended by adding, at the end, the following paragraph:

“For the purposes of this Act, a person appointed by the Government or a minister, together with the personnel he manages, is deemed, in respect of the exercise of the functions assigned to him by law, by the Government or by the Minister, to be a Government agency.”

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

“5. Municipal bodies include

(1) a municipality, and any body declared by law to be the mandatary or agent of a municipality, and any body whose board of directors is composed in the majority of members of the council of a municipality and whose budget is adopted by such council;

(2) an urban or regional community, an intermunicipal board, an intermunicipal transit corporation, an intermunicipal board of transport, the Kativik Regional Government and any other body whose board of directors is composed in the majority of elected municipal officers, except a private body.”

3. Section 7 of the said Act is amended by inserting the words “the private establishments referred to in the said Act which operate with sums of money taken out of the consolidated revenue fund,” after the comma in the third line and by striking out the words “the hospital centres that are private establishments under agreement within the meaning of this Act,” in the fifth and sixth lines.

4. Section 10 of the said Act is amended by replacing the words “The right may also be exercised by obtaining” in the first line of the second paragraph by the words “The applicant may also obtain”.

5. Section 12 of the said Act is repealed.

6. Section 13 of the said Act is replaced by the following section :

“13. The right of access to a document produced by or for a public body and published or distributed commercially may also be exercised by procuring enough information to enable the applicant to examine or obtain the document where it is available.

Furthermore, the right of access to a document produced by or for a public body and that is to be distributed or published commercially six months or less after the request for access may also be exercised by procuring enough information to enable the applicant to examine or obtain the document where it will be available.

This section applies notwithstanding the second and third paragraphs of section 10 and the second, third and fourth paragraphs of section 11.”

7. Section 17 of the said Act is amended by replacing the words “Minister of Communications” in the first line by the word “Commission”.

8. Section 28 of the said Act is amended by adding, at the end, the following paragraph:

“The same applies to a public body designated by regulation of the Government with respect to information obtained by the body through its internal security service in the course of an investigation held to prevent, detect or repress crime or statutory offences that may be or have been committed within that body, by its members, the members of its board of directors or the members of its personnel, if the disclosure of such information would likely entail one of the consequences set out in subparagraphs 1 to 9 of the first paragraph.”

9. Section 44 of the said Act is amended by inserting the words “and identifying the document requested” after the word “request” in the first line.

10. The said Act is amended by inserting, after section 52, the following section:

“52.1 The person in charge must see to it that every document that has been the subject of a request for access be kept for as long as is required to enable the applicant to exhaust the recourses provided in this Act.”

11. Section 57 of the said Act is amended

(1) by inserting the words “of the personnel” after the word “member” in the third line of subparagraph 2 of the first paragraph;

(2) by inserting the words “and address” after the word “name” in the first line of subparagraph 4 of the first paragraph;

(3) by adding, after subparagraph 4 of the first paragraph, the following subparagraph:

“(5) the name and business address of the holder of a permit issued by a public body and which is required by law to be held for the carrying on of an activity or business or for the exercise of a profession.”

12. Section 59 of the said Act is amended by adding, after subparagraph 8 of the second paragraph, the following subparagraph:

“(9) to a person involved in an incident that has been the subject of a report of incident by a police force, such information concerning any other person involved in the incident, except information concerning a witness or informer, if, as a person involved in the incident, he requires the information in order to assert his interests or his rights.”

13. Section 62 of the said Act is replaced by the following section:

“62. Every person qualified to receive nominative information within a public body has access to nominative information without the consent of the person concerned where such information is necessary for the discharge of his duties.

Moreover, the person must belong to a category of persons referred to in subparagraph 4 of the second paragraph of section 76 or in subparagraph 5 of the first paragraph of section 81.”

14. The said Act is amended by inserting, after section 66, the following section:

“66.1 Notwithstanding subparagraphs 2 and 3 of the first paragraph of section 65, a duly authorized employee of a public body with which files respecting adoption are deposited is not required to indicate the use for which the information he obtains for the purposes of such files is intended nor the categories of persons who will have access to it.”

15. Section 67.2 of the said Act is amended

(1) by striking out the words “administrative management” in the third and fourth lines;

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

“In that case, the public body shall

(1) entrust the duties by a mandate in writing;

(2) notify the mandatary, in the mandate, of the provisions of this Act with which he must comply;

(3) provide, in the mandate, the measures necessary to ensure that the nominative information released to the mandatary not be used except for the carrying out of his mandate and that it not be kept by the mandatary after the expiry of the mandate.

The second paragraph does not apply to the members of the professional corporations listed in Schedule I to the Professional Code (R.S.Q., chapter C-26) who are bound by professional secrecy.”

16. Section 67.3 of the said Act is amended by inserting the words “, except the release of nominative information required by a person or body for charging to the account of a member of a public body, or to a member of its board of directors or of its personnel, an amount required by law to be withheld or paid” after the figure “67.2” in the fourth line of the first paragraph.

17. Section 70 of the said Act is amended

(1) by replacing the word “fifteen” in the second line, and in the third line, of the second paragraph by the word “thirty”;

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

“The agreement must, in addition, be published in the *Gazette officielle du Québec* within thirty days of its tabling in the National Assembly.”

18. Sections 74 and 75 of the said Act are repealed.

19. Section 76 of the said Act is amended by replacing the words “, the method by which the file is maintained and, where such is the case, the identification of the computer programs used” in the second and third lines of subparagraph 1 of the second paragraph by the words “and the method by which the file is maintained”.

20. Section 83 of the said Act is amended by striking out the third paragraph.

21. Section 84 of the said Act is amended by replacing the word “or” in the third line of the first paragraph by the word “and” and by striking out the words “, at his option” in the third and fourth lines of the same paragraph.

22. Section 87 of the said Act is amended by adding, at the end, the following paragraph:

“A public body shall not refuse, however, to release or to confirm the existence of nominative information to the concerned person on the ground that the refusal is based on the application of section 37 where a final decision on the matter being the subject of the opinion or recommendation referred to in the said section has been rendered by the competent authority.”

23. Section 96 of the said Act is amended by inserting the words “and identifying the information requested” after the word “request” in the first line.

24. Section 99 of the said Act is repealed.

25. The said Act is amended by inserting, after section 102, the following section:

“102.1 The person in charge must see to it that any information that has been the subject of a request for access be kept for as long as is required to enable the applicant to exhaust the recourses provided in this Act.”

26. Section 124 of the said Act is amended by striking out the words “, the persons who are exempted from registering pursuant to paragraph 3 of section 75,” in the second and third lines of paragraph 4.

27. Section 126 of the said Act is amended by adding, after the second paragraph, the following paragraph:

“A member of the Commission may, in the name of the Commission, exercise by himself the powers conferred on the Commission by this section.”

28. Section 132 of the said Act is replaced by the following section:

“**132.** The Commission must, at least every two years, publish and distribute in all regions of Québec an index of all the personal information files held by public bodies.”

29. Section 144 of the said Act is amended

(1) by striking out the words “, unless an appeal is brought under section 147” in the third line of the first paragraph;

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

“From the time the decisions become executory, a certified copy thereof may be filed by the Commission or a party in the office of the prothonotary of the Superior Court of the district of Montréal or Québec or of the district where the head office, place of business or residence of a party is situated.

The filing of a decision grants thereupon to the decision the force and effect of a judgment of the Superior Court.”

30. Section 147 of the said Act is amended by replacing the words “three judges” in the second line of the first paragraph by the words “a judge”.

31. Section 148 of the said Act is amended by replacing the words “one or more judges” in the first and second lines by the words “a judge”.

32. Section 149 of the said Act is amended

(1) by replacing the first paragraph by the following paragraph:

“149. The motion for leave to appeal must specify the questions of law or jurisdiction which ought to be examined in appeal and must be filed in the office of the Court of Québec, at Montréal or at Québec, within thirty days after the date of receipt of the decision of the Commission by the parties, after notice to the parties and to the Commission.”;

(2) by adding, after the second paragraph, the following paragraph:

“The decision authorizing the appeal must mention only the questions of law or jurisdiction that will be examined in appeal.”

33. The said Act is amended by inserting, after section 149, the following section:

“149.1 The motion for leave to appeal suspends the execution of the decision of the Commission until the decision of the judge of the Court of Québec becomes executory, except in the case of an appeal from a decision ordering a public body to abstain from doing something or unless the judge orders otherwise.”

34. Section 151 of the said Act is amended by replacing the words “and every other relevant document,” in the second line of the second paragraph by the words “the documents related to the contestation and the decision authorizing the appeal”.

35. Section 152 of the said Act is amended by replacing the second sentence by the following sentence: “The parties are not required, however, to file a statement of their claims.”

36. Section 154 of the said Act is amended by replacing the words “three judges” in the first line by the word “judge”.

37. Section 155 of the said Act is amended by inserting, after subparagraph 6 of the first paragraph, the following subparagraph:

“(7) designating, for the purposes of the second paragraph of section 28, the public bodies that must refuse to release or to confirm the existence of information obtained through their internal security service.”

38. The said Act is amended by inserting, after section 159.1, the following section:

“159.2 Every person who knowingly uses nominative information for purposes other than those for which it was collected

is guilty of an offence and is liable to a fine of \$200 to \$1 000 and, for a second or any subsequent offence within two years, to a fine of \$500 to \$2 500.”

ACT RESPECTING INCOME SECURITY

39. Section 25 of the Act respecting income security (1988, chapter 51) is amended by adding, after the first paragraph, the following paragraph:

“Notwithstanding subparagraph 4 of the first paragraph of section 57 of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1), the name and address of a person who is granted such benefits is not public information.”

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