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# NATIONAL ASSEMBLY

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FIRST SESSION

THIRTY-THIRD LEGISLATURE

Bill 83

## **An Act to amend the Act respecting probation and houses of detention**

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### **Introduction**

**Introduced by  
Mr Gérard Latulippe  
Solicitor General**

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#### EXPLANATORY NOTES

*Under this bill, a fund for the benefit of confined persons is established in each house of detention established under the Act respecting probation and houses of detention. The object of the fund is the establishment and implementation of a program of activities to promote the rehabilitation of confined persons, who, under the program, will be able to take part in activities both inside and outside the establishment.*

*This bill also creates a central fund for the benefit of confined persons to lend financial assistance to any fund established in a house of detention, to draw up policies on programs of activities, to advise the Government on the regulations to adopt and to approve the program established by each fund established in a house of detention.*

*It also empowers the Government to make regulations to establish standards for the drafting and implementation of programs of activities and the administration of a fund.*

*Lastly, the bill makes concordance amendments to the Act respecting industrial accidents and occupational diseases.*

#### ACTS AMENDED BY THIS BILL:

— The Act respecting probation and houses of detention (R.S.Q., chapter P-26);

— The Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001).

## Bill 83

### **An Act to amend the Act respecting probation and houses of detention**

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

**1.** Section 1 of the Act respecting probation and houses of detention (R.S.Q., chapter P-26) is amended by adding the following paragraph:

“(h) “activities”: any activities designed to promote the rehabilitation of confined persons, particularly work activities, whether remunerated or not, leisure and training activities, and sports and socio-cultural activities.”

**2.** Sections 19 to 19.5 of the said Act are repealed.

**3.** Section 19.6.1 of the said Act is replaced by the following section:

“**19.6.1** Notwithstanding the Act respecting occupational health and safety (chapter S-2.1), only sections 12 to 48 and paragraph 11 of section 51 of the said Act apply to

(1) a person confined in a house of detention who carries out remunerated work under a program of activities; for the purposes of the said Act, the fund for the benefit of confined persons established in that house of detention under section 22.0.1 is presumed to be his employer;

(2) a person who executes a probation order involving community work; for the purposes of the said Act, the Government is presumed to be his employer.

The contribution of the employer is established according to the standards applied under the said Act by the Commission de la santé et de la sécurité du travail.”

**4.** Section 19.7 of the said Act, amended by section 268 of chapter 34 of the statutes of 1985, is replaced by the following section:

**“19.7** The Labour Code (chapter C-27), the Act respecting collective agreement decrees (chapter D-2), the Act respecting labour standards (chapter N-1.1), the Public Service Act (chapter F-3.1.1), the Act respecting labour relations in the construction industry (chapter R-20), Chapter IV of the Building Act (1985, chapter 34), the Master Electricians Act (chapter M-3), the Master Pipe-Mechanics Act (chapter M-4) and the Act respecting manpower vocational training and qualification (chapter F-5) do not apply to a person confined in a house of detention who carries out

(1) work inside such establishment;

(2) work outside such establishment in an undertaking operated by the fund for the benefit of confined persons that has been established therein;

(3) a probation order involving community work.”

**5.** Section 21 of the said Act is amended by replacing the word “detained” in the first line by the word “confined”.

**6.** Section 22 of the said Act is amended by replacing the figures “19, 19.1” in the fourth line by the figure “22.0.3”.

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

#### “DIVISION V.0.1

##### “PROGRAMS OF ACTIVITIES FOR CONFINED PERSONS

#### § 1.—*Fund for the benefit of confined persons*

**“22.0.1** A fund for the benefit of confined persons is hereby established in every house of detention.

The corporate name of every fund shall include the expression “Fonds au bénéfice des personnes incarcérées” and indicate the name of the house of detention.

**“22.0.2** The functions of every fund shall be to establish each year, on the date fixed by the central fund for the benefit of confined persons and within the framework determined by regulation, a program of activities for confined persons, and to see to its implementation. The program or any change in the program must be approved by the central fund.

A further function of every fund is to give financial assistance to confined persons on the conditions prescribed by regulation.

For those purposes, the fund shall administer funds constituted of

(1) a percentage fixed by regulation of the remuneration owed to a confined person;

(2) gifts for the benefit of confined persons, subject to any attached conditions;

(3) any income generated by a program of activities;

(4) sums of money from any other source that may be determined by regulation.

**“22.0.3** The Director General may, within the framework of a program of activities for confined persons,

(1) entrust the organization and management of services in the house of detention to the fund for the benefit of confined persons;

(2) authorize a confined person to become involved in activities inside and outside the house of detention;

(3) permit the fund to use the services, staff, premises and facilities of a house of detention, on the conditions prescribed by regulation.

The powers of the Director General under this section may be exercised by a person designated by him in writing.

**“22.0.4** Every fund is a corporation.

**“22.0.5** The corporate seat of the fund is at the house of detention.

**“22.0.6** The fund shall be administered by a board of directors composed of the warden and six other members appointed by the Director General.

Two members shall be chosen from among the persons confined in the house of detention.

Two members shall be chosen from among the officers working under the authority of the warden or of the Director General.

Two members shall be chosen from among other persons who are interested in the rehabilitation of confined persons and who are resident in the territory of the house of detention; one of these members must be a representative of the business community.

**“22.0.7** The term of office of a member of the board of directors, other than that of the warden, shall not exceed two years. The term is renewable.

Each shall remain in office notwithstanding the expiry of his term until he is replaced or reappointed.

**“22.0.8** The members of the board of directors shall elect a chairman and a vice-chairman from among themselves. The vice-chairman shall carry on the functions of the chairman if he is temporarily absent or unable to act.

**“22.0.9** A majority of the members of the board of directors, including the warden or an officer, forms a quorum.

In the event of a tie vote, the chairman has a casting vote.

**“22.0.10** A decision signed by all the members of the board of directors has the same force as if it had been taken at a regular sitting.

**“22.0.11** The board of directors shall administer the affairs and exercise all the powers of the fund.

**“22.0.12** A fund may, among other things,

(1) subject to the rules prescribed by regulation, enter into any contract to enable a confined person to benefit from activities inside or outside the house of detention;

(2) contract loans to finance a program of activities;

(3) authorize expenditures out of its funds;

(4) hire any person necessary for the performance of its functions.

**“22.0.13** A fund may make a gift or grant a loan, with or without interest, to another fund established under section 22.0.1.

**“22.0.14** The Government may, on such conditions as it may determine, guarantee, out of the consolidated revenue fund or otherwise,

the payment in capital and interest of any loan or assume the cost of any other obligation contracted by the fund.

**“22.0.15** Every fund shall deduct the percentage fixed by regulation from the remuneration owing to a person confined in the house of detention, and the sum so deducted shall be paid into its funds.

The balance of the remuneration owing shall be paid to the warden, who shall make the deductions prescribed by an Act in force in Québec or a statutory instrument thereunder, or by a court judgment, as the case may be.

The warden shall remit to the confined person, out of the remuneration paid to him, the allowance determined by regulation.

**“22.0.16** Subject to any contrary agreement in writing and authorized by the Director General, the balance of the remuneration shall be deposited by the warden in a financial institution and credited to the savings account held in trust for such purpose by the warden. When the confined person is released, the warden shall, by a cheque signed by him, pay to the person the amount and interest owing to him.

**“22.0.17** The warden of every house of detention shall make a report to every person confined there, at least once every month and at the time of his release, of the remuneration he has received on the person’s behalf and of the deductions or deposits made under section 22.0.15 or 22.0.16.

**“22.0.18** Every fund shall pay a contribution to the central fund, as determined by the latter.

**“22.0.19** The financial year of a fund ends on 31 December each year.

**“22.0.20** No deed, document or writing binds a fund unless it is signed by the chairman or any other duly authorized officer.

**“22.0.21** Every fund shall, not later than 30 April each year, submit its financial statements and a report of its activities for the preceding financial year to the Minister. The financial statements and the report of activities must contain all the information required by the Minister.

**“22.0.22** Every fund shall also furnish the Minister with any information he requires on its activities.

**“22.0.23** The books and accounts of every fund shall be audited each year.

The auditor's report must accompany the report of activities and financial statements of the fund.

The Minister may also, at any time, order the audit of the books and accounts of a fund by an auditor designated by him.

**"22.0.24** If a house of detention is closed, the fund shall be wound up according to the rules and on the terms and conditions prescribed by regulation.

§ 2.—*Central fund for the benefit of confined persons*

**"22.0.25** A central fund called the "Fonds central pour le bénéfice des personnes incarcérées" is hereby established.

**"22.0.26** The functions of the central fund are

(1) to lend support to a fund established in a house of detention and in financial difficulty, for which purpose it may make a gift to it or grant it a loan with or without interest;

(2) to devise policies concerning programs of activities and to advise the Government on what regulations to adopt;

(3) to approve the program of activities established by every fund established in a house of detention.

**"22.0.27** The central fund shall be constituted of

(1) the required contributions from the funds established in the houses of detention;

(2) the interest on its moneys;

(3) sums of money from any other source that may be determined by regulation.

The central fund shall determine, within certain limits prescribed by regulation, the amount of the contribution payable by each fund, which may differ with each fund, and when it is due.

**"22.0.28** The central fund is a corporation.

**"22.0.29** The corporate seat of the central fund is at the Service.

**"22.0.30** The central fund shall be administered by a board of directors composed of seven members appointed by the Director General; three members shall be chosen from among the wardens of

the houses of detention, two shall be chosen from among the officers of the Service, and two others shall be chosen from among persons interested in the rehabilitation of confined persons, including a representative of the business community.

The members of the board of directors shall be appointed for two years. Their term of office is renewable.

Each member shall remain in office notwithstanding the expiry of his term until he is replaced or reappointed.

**“22.0.31** Sections 22.0.8 to 22.0.11 and 22.0.19 to 22.0.23, adapted as required, apply to the central fund.”

**8.** Section 23 of the said Act, amended by section 19 of chapter 29 of the statutes of 1985, is again amended

(1) by replacing paragraph *e* by the following paragraph:

“(*e*) subject to section 17, establish different classes of confined persons and prescribe standards respecting their confinement separately from one another;”;

(2) by replacing the word “inmates” in paragraph *g* by the words “confined persons”;

(3) by replacing the word “detained” in paragraph *h* by the word “confined”;

(4) by replacing paragraph *i* by the following paragraph:

“(*i*) determine the conditions on which persons confined in houses of detention may be employed in useful work and, for such purpose, divide the persons into classes;”;

(5) by replacing paragraph *j* by the following paragraphs:

“(*j*) prescribe the measures to be taken to facilitate access by confined persons to academic, occupational training or self-improvement courses;

“(*j.1*) determine other sources of sums of money which may go to constitute the funds contemplated in the third paragraph of section 22.0.2 or the central fund;”;

(6) by replacing the word “inmates” in paragraph *l* by the words “confined persons”;

(7) by striking out paragraphs *n* to *r*.

**9.** The said Act is amended by inserting, after section 23, the following section:

**“23.1** The Government shall make any regulations necessary for the administration of Division V.0.1 respecting programs of activities for confined persons, and shall, in particular,

(1) fix criteria for the establishment of a program of activities, determine activities which must or may be included in such a program and, where such is the case, in the program of activities of each fund established in each house of detention;

(2) determine standards of implementation of programs of activities;

(3) prescribe the conditions under which a fund established in a house of detention may give financial assistance to a confined person;

(4) determine standards of management of the sums of money which go to constitute the funds contemplated in the third paragraph of section 22.0.2 or the central fund;

(5) determine the rules to be followed by a fund established in a house of detention in the exercise of the power contemplated in paragraph 1 of section 22.0.12;

(6) prescribe rules, terms and conditions respecting the borrowing powers of a fund established in a house of detention;

(7) prescribe the conditions on which a fund established in a house of detention may use the services, staff, premises and facilities of the establishment;

(8) establish classes of persons who are not entitled to participate in activities;

(9) establish standards respecting the remuneration and other conditions of employment of persons performing duties under a program of activities;

(10) prescribe rules, terms and conditions respecting the winding-up of a fund established in a house of detention;

(11) determine, for the application of section 22.0.15, the percentage of the remuneration owing to a confined person;

(12) prescribe the limits within which the central fund shall determine the amount of the contribution payable by each fund established in a house of detention;

(13) determine what allowance a person confined in a house of detention may receive out of the remuneration owed to him and what purchases and reimbursements he may make.”

**10.** Section 24 of the said Act is amended by replacing the word and figure “section 23” by the words and figures “sections 23 and 23.1”.

**11.** Section 25 of the said Act is amended by replacing the words and figure “*j* and *l* to *r* of section 23” in the fourth line of the first paragraph by the words and figures “*j.1*, *l* and *m* of section 23 and in section 23.1.”

ACT RESPECTING INDUSTRIAL ACCIDENTS  
AND OCCUPATIONAL DISEASES

**12.** Section 11 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001) is amended

(1) by replacing paragraph 2 by the following paragraph:

“(2) a person who, under the Act respecting probation and houses of detention (chapter P-26), executes a probation order involving community work;”;

(2) by striking out the second paragraph.

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

“CONFINED PERSONS WHO CARRY OUT REMUNERATED  
WORK UNDER A PROGRAM OF ACTIVITIES

**“12.1** A confined person is deemed to be a worker employed by the fund for the benefit of confined persons established in a house of detention under section 22.0.1 of the Act respecting probation and houses of detention if he carries out remunerated work under a program of activities.

Sections 22.0.15 to 22.0.17 of the said Act apply to the indemnities owing to a confined person.”

**14.** Section 234 of the said Act is amended by replacing the second paragraph by the following paragraph:

“Notwithstanding the foregoing, this division does not apply to a worker contemplated in section 12.1 or to a worker contemplated in Division II of this chapter, except with respect to section 243.”

**15.** Section 294 of the said Act is amended by adding the following paragraph:

“The first paragraph also applies to a fund for the benefit of confined persons contemplated in section 12.1.”

**16.** Section 296 of the said Act is amended by inserting, after the second paragraph, the following paragraph:

“A fund for the benefit of confined persons contemplated in section 12.1 shall keep a detailed register of the names and addresses of the persons contemplated in the said section.”

**17.** Section 310 of the said Act is amended by adding the following paragraph:

“(4) the employer of a confined person contemplated in section 12.1, according to the minimum wage in force on 31 December of the year during which the work was carried out.”

**18.** Every fund for the benefit of confined persons established in a house of detention under section 22.0.1 of the Act respecting probation and houses of detention, as enacted by section 7 of this Act, has all the rights and obligations arising from all programs of remunerated activities at the house of detention established before (*insert here the date of coming into force of this Act*).

Every fund is also vested with all the property composing the fund for the benefit of confined persons established in the house of detention under section 19.3 as in force on (*insert here the date of the day before the date of coming into force of this Act*).

**19.** The central fund for the benefit of confined persons established under section 22.0.25 of the Act respecting probation and houses of detention, as enacted by section 7 of this Act, has all the rights and obligations and is vested with all the property constituting the central fund which is administered by the Service de la probation et des établissements de détention.

**20.** This Act comes into force on the date fixed by the Government.