



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-THIRD LEGISLATURE

Bill 21

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

Introduction

Introduced by
Madam Thérèse Lavoie-Roux
Minister of Health and Social Services



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EXPLANATORY NOTES

The object of this bill is to require an adopter intending to adopt a child outside Québec to apply to the court for verification that his plan for adoption is conformable to law.

A further object is to allow recognition of an adoption judgment rendered outside Québec where the foreign law does not have the effect of creating a bond of filiation, replacing and dissolving the original bond of filiation, if the State in which the child is domiciled has agreed through its authorized representative to the adopter's adopting the child.

It also specifies the roles of the various intervening persons in cases of adoption of children domiciled outside Québec, particularly the role of the Minister of Health and Social Services.

It authorizes the intervention of the Attorney General and the director of youth protection in verification of plans for adoption.

In addition, it makes several amendments of concordance in respect of regulation-making powers and offences.

Lastly, the bill contains transitional provisions respecting the verification of certain adoption judgments rendered outside Québec.

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).

Bill 21

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

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. The Civil Code of Québec is amended by adding, after article 614, the following:

*“§ 5.—Special conditions respecting adoption
of a child domiciled outside Québec*

“614.1 No adoption of a child domiciled outside Québec by an adopter domiciled in Québec may take place unless the adopter submit an application for adoption to the director of youth protection, the latter examines the application and the adopter acts through the intermediary of the Minister of Health and Social Services.

“614.2 Where the adopter intends to adopt the child outside Québec, he shall previously apply to the court for verification that his plan is conformable to law. Where he intends to adopt the child in Québec, he shall apply to the court for an order of placement.

“614.3 The court, where called upon to verify that the plan for adoption is conformable to law or to grant the order of placement shall satisfy itself that the adopter has fulfilled the legal requirements in his regard and that the rules regarding consent to adoption and eligibility of the child for adoption are observed.

It shall also satisfy itself that, under the foreign law, a bond of filiation will be created between the child and the adopter, replacing the original bond of filiation, which will be dissolved as a result or, if the foreign law does not have the effect of dissolving the original bond of filiation, that the State where the child is domiciled consents through an authorized representative to the adoption of the child by the adopter.

“614.4 Where the placement of the child is made under an agreement entered into by virtue of the Acts respecting youth protection, the court shall merely verify that the procedure followed is as provided in the agreement.”

2. The said Code is amended by striking out article 617.1.

3. 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 conditions applicable to adoption of a child domiciled outside Québec have been observed.”

4. The Code of Civil Procedure (R.S.Q., chapter C-25) is amended by replacing article 823 by the following article:

“823. Applications in matters pertaining to the adoption of a minor must be served on the director of youth protection having jurisdiction in the child’s place of residence or, in the case of the adoption of a child domiciled outside Québec, in the place where the adopter is domiciled.

The director may intervene of right in connection with such application.”

5. 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,
VERIFICATION OF PLANS FOR ADOPTION
AND ADOPTION”.

6. The said Code is amended by adding, after article 825.1, the following article:

“825.0.1 An application presented by an adopter domiciled in Québec for verification that a plan for adoption outside Québec is

conformable to law must implead the Attorney General and be served on him not less than five days before the date of presentation of the application.”

7. The Youth Protection Act (R.S.Q., chapter P-34.1) is amended by inserting, after section 72.1, the following section:

“72.1.1 The Minister of Health and Social Services shall, to ensure the respect of children’s rights, coordinate the steps taken by adopters and the activities of persons who intervene in the adoption of children domiciled outside Québec.”

8. Section 72.2 of the said Act is amended by striking out the second paragraph.

9. Section 72.3 of the said Act, amended by section 1 of chapter 104 of the statutes of 1986, is replaced by the following sections:

“72.3 An adopter domiciled in Québec at the time of the adoption may adopt a child domiciled outside Québec only through the intermediary of the Minister of Health and Social Services.

The Minister may be assisted by an organization recognized by him for that purpose whose mission is to defend children’s rights, promote their interests and improve their living conditions.

The recognized organization shall intervene only in accordance with the conditions and modalities prescribed by regulation; such intervention must comply with the commitments made by the organization toward the Minister and set forth in an agreement signed by them which contains, in addition to the proper clauses of the agreement, the clauses of the standard agreement approved by order of the Government.

“72.3.1 The director shall receive and study, as the need arises, applications for adoption of children domiciled outside Québec. Where a child is to be placed in Québec, the Minister shall take charge of him and see to his placement. In all cases, he shall intervene in accordance with the conditions and modalities prescribed by regulation.”

10. Section 132 of the said Act, amended by section 2 of chapter 104 of the statutes of 1986, is again amended by replacing the word and figure “section 72.3” in the third line of subparagraph *g* of the first paragraph by the words and figures “sections 72.3 and 72.3.1”.

11. Section 135.1 of the said Act, amended by section 3 of chapter 104 of the statutes of 1986, is again amended by replacing the word and figure “section 72.3” in the first and second lines of paragraph *d* by the words and figures “sections 72.3 and 72.3.1 and in articles 614.1 and 614.2 of the Civil Code of Québec”.

12. The Youth Court, in accordance with the law in force on the day before the coming into force of this Act, may recognize an adoption judgment rendered outside Québec before (*insert here the date of introduction of this Act*), even if the foreign law does not have the effect of creating a bond of filiation, replacing and dissolving the original bond of filiation, and as a result of which the object of the consent of the parents, where such is the case, is not to permit dissolution of the original bond of filiation.

13. The Youth Court, in accordance with the law in force on the day before the coming into force of this Act, may recognize an adoption judgment rendered outside Québec after that date where, before the coming into force of this Act, the adopter has acted with the concurrence of the intermediary recognized by law and his application has been examined by the director of youth protection.

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