

FIRST SESSION

THIRTY-SECOND LEGISLATURE

# NATIONAL ASSEMBLY OF QUÉBEC

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## Bill 18

**An Act to provide for the carrying out  
of the family law reform and to amend  
the Code of Civil Procedure**

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First reading .....  
Second reading .....  
Third reading .....

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Minister of Justice

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## EXPLANATORY NOTES

*The object of this bill is to allow the harmonious application of the Act to establish a new Civil code and to reform family law by*

*— introducing new procedures in family law matters into the Code of Civil Procedure,*

*— completing the legislation on adoption,*

*— transposing the fundamental principles of the new family law in other Québec legislation, and*

*— amending certain transitional provisions in family law.*

*More particularly, in matters of civil procedure, the bill sets forth the rule that, in family law matters, court hearings in first instance are to be held in camera, unless the court decides otherwise; the Charter of human rights and freedoms is amended accordingly.*

*The bill also provides introductory procedures for actions instituted by a declaration or motion and, in both cases, the parties may address a joint application to the court; it also sets out specific rules to facilitate the proceedings, the conciliation of the parties or the hearing of the case and it introduces the principle of law whereby a child is entitled to be represented by an attorney when his interest is at stake and the safeguard of his interest so requires.*

*Further, the bill specifies rules applicable to certain actions respecting marriage, nullity of marriage, judicial separation as to property, parental authority, change of name or application for the surviving spouse's compensatory allowance and above all it provides a procedure applicable to joint applications for separation as to bed and board or for divorce on a draft agreement, and a procedure applicable in matters of adoption such as applications for the return of a child, motions for a declaration of eligibility for adoption, and applications for placement or adoption; the bill finally specifies that an appeal lies to the Court of Appeal from judgments rendered in matters of adoption.*

## Bill 18

An Act to provide for the carrying out  
of the family law reform and to amend  
the Code of Civil Procedure

### PART I

#### AMENDMENTS TO THE CODE OF CIVIL PROCEDURE

**1.** Article 12 of the Code of Civil Procedure (R.S.Q., chapter C-25) is amended

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

“(b) the matters governed by Titles I, IV, V and VI of Book V;”;

(2) by striking out paragraphs *c* and *e*.

**2.** Article 13 of the said Code is replaced by the following article:

“**13.** The sittings of the courts are public wherever they may be held, but the court may order that they be held in camera in the interests of good morals or public order.

However, in first instance the sittings are held in camera where family law proceedings are concerned, unless the court orders a public sitting if on the motion of the parties or either of them, it deems it expedient in the interest of justice.”

**3.** Article 26 of the said Code, amended by section 6 of chapter 37 of the statutes of 1979, is again amended by adding, at the end, the following paragraph:

“(6) from any order or judgment rendered in a matter of adoption.”



*This bill also amends various laws in order to do away with remaining distinctions based on sex, filiation or circumstances of birth. This explains why the meaning of the definition of connected persons, where it applies to adopted persons, is being changed together with distinctions based on former concepts of legitimacy or illegitimacy of children and why other laws have been amended to do away with distinctions based on sex. In those Acts "widow" is replaced by "surviving spouse", especially in respect of the assignment of certain pensions. The Companies and Partnerships Declaration Act is amended to remove from women separated as to property the obligation of filing a declaration of intention to carry on trade; the Education Act is amended by striking out the provision that, contrary to men, women could refuse to accept the public office of school commissioner or trustee or resign after having accepted; the Notarial Act is amended to allow women notaries to use their own names, and the Cooperative Syndicates Act is amended by striking out the provision pertaining to the limited capacity of women married under community of property.*

*This bill also amends the Legal Aid Act in order to provide for a regulatory power respecting the payment of the fees of attorneys representing children, the Act respecting the Ministère des affaires sociales and the Youth Protection Act to provide for certain administrative procedures pertaining to adoption, to establish the rights and powers of directors of youth protection, to provide for a summary of the antecedents of a child or his adopting parents and to establish certain offences in matters of adoption.*

*Finally, this bill amends certain transitional provisions of the Act to establish a new Civil Code and to reform family law to allow the gradual coming into force of certain provisions in the matter of separation as to bed and board or pertaining to the establishing of a compensatory allowance in cases of separation as to bed and board or divorce.*

**4.** Article 29 of the said Code, amended by section 7 of chapter 37 of the statutes of 1979, is again amended by replacing that part of the first paragraph which precedes subparagraph 1 by the following:

**“29.** An appeal also lies, with or without leave of a judge of the Court of Appeal, according as an appeal from the final judgment would or would not require such leave, from an interlocutory judgment of the Superior Court, the Provincial Court or, in any matter pertaining to adoption, the Youth Court:”.

**5.** Article 36.1 of the said Code is replaced by the following article:

**“36.1** The Youth Court has jurisdiction, to the exclusion of the Superior Court and the Provincial Court, in matters respecting adoption.

In other matters, the jurisdiction of the Youth Court and the procedure to be followed before it are determined by special Acts.”

**6.** Article 56 of the said Code is amended by adding the words “or by this Code” after the word “capacity” at the end of the second paragraph.

**7.** The said Code is amended by inserting, after article 62, the following article:

**“62.1** Where the parties have brought an action by way of a joint suit and are represented by the same attorney, the court may adjourn the hearing of the action until each party has appeared in person or obtained a new attorney, if it considers that the action raises real difficulties and that, owing to the mode of representation, it will not be possible for justice to be done.”

**8.** Article 70 of the said Code is replaced by the following article:

**“70.** Actions in matters of family law are taken before the court of the common domicile of the parties or, failing such a domicile, the domicile of either of the parties.

However, oppositions to marriage, applications for dispensation from an age requirement and applications for authorization for a minor or a person of weak intellect to make marriage covenants are taken before the court of the place where the marriage is to be solemnized or of the domicile of the minor or the person of weak intellect.

Lastly, actions in matters of adoption are taken before the court of the district of the domicile of the child or the plaintiff or, if the child has no domicile in Québec or if the adopters consent, before the court of the district where the director of youth protection who was the last to have charge of the child resides.”

**9.** Article 114 of the said Code is replaced by the following article:

**“114.** The writ must state the surname, given names, occupation, domicile and ordinary residence of the plaintiff, and the surname, given names and last known residence of the defendant. It must also state the capacity of any party who figures therein otherwise than personally.”

**10.** Article 115 of the said Code is amended by striking out the third and fourth paragraphs.

**11.** Article 195 of the said Code is amended by replacing the first paragraph by the following paragraph:

**“195.** An action not contemplated in section 194 is inscribed for proof and hearing before the court or, if it is not an action for separation as to bed and board, in nullity of marriage or for divorce or an application in respect of filiation or of deprivation or restoration of parental authority, before the special prothonotary.”

**12.** Article 257 of the said Code is amended by striking out paragraph 3.

**13.** Article 394 of the said Code is amended by replacing the words “actions in nullity of marriage” by the words “actions relating to filiation, actions for divorce, actions in nullity of marriage”.

**14.** Article 404 of the said Code is amended by replacing the second paragraph by the following paragraph:

“However, the court cannot maintain an action in separation as to bed and board, in nullity of marriage, for divorce or relating to filiation, if the evidence of the plaintiff has not been given before the court.”

**15.** Article 448 of the said Code is amended by striking out the words “nullity of marriage, separation from bed and board, separation of property,”.

**16.** Article 457 of the said Code is replaced by the following article:

**“457.** Except in cases of separation as to bed and board, nullity of marriage, divorce or filiation, the defendant may, at any stage of the proceedings, file or have filed in the office of the court a confession of judgment for the whole or any part of the demand.”

**17.** Article 471 of the said Code is amended by replacing the words “an action for separation from bed and board or for divorce” in the first paragraph by the words “matters of family law”.

**18.** The said Code is amended by inserting, after article 478, the following article:

**“478.1** The costs of joint actions are shared equally by the parties, unless they have agreed to the contrary or the court has, by order, decided otherwise.

Similarly, costs resulting from the decision of the court to allow a child to be represented by an attorney in a proceeding are shared equally by the parties, unless the court, by order, decides otherwise.”

**19.** Article 553 of the said Code, amended by section 29 of chapter 37 of the statutes of 1979 and by section 4 of chapter 21 of the statutes of 1980, is again amended by adding a reference to paragraph 4 to the enumeration appearing therein.

**20.** The said Code is amended by adding, after article 734, the following article:

**“734.0.1** In an action in nullity of marriage, for judicial separation as to property, for separation as to bed and board or for divorce, each spouse may also cause seizure before judgment of the moveables belonging to him, whether they are in the hands of his spouse or of a third person; he may, in addition, with leave of a judge, cause the seizure of property of his spouse that he would be entitled to share in if the matrimonial regime were dissolved.

The seized property remains in the custody of the debtor, unless a judge decides otherwise.”

**21.** Article 735 of the said Code is amended by replacing the second paragraph by the following paragraph:

“In the cases provided for in articles 733, 734.0.1 and 734.1, the authorization of the judge must appear upon the requisition itself.”

**22.** Title Four of Book Five of the said Code is replaced by the following:



## “TITLE FOUR

### “FAMILY LAW PROCEEDINGS

#### “CHAPTER ONE

#### “GENERAL PROVISIONS

#### “SECTION I

#### “PROCEEDINGS INTRODUCTIVE OF SUITS OR INTERLOCUTORY PROCEEDINGS

#### “ §1.—*General provisions*

**“813.** Actions based on Book Two of the Civil Code are instituted by filing in the office of the court a declaration or a motion stating the facts, the grounds on which the action is founded and the conclusions sought.

Except where otherwise provided in this Title, the actions referred to in the first paragraph follow the general rules applicable to other actions and the designation of the parties follows the rules provided for writs of summons.

**“813.1** Except where prohibited by law or by circumstances, any action by way of a declaration or motion may be taken jointly.

**“813.2** As soon as the action is received by the prothonotary he registers it, and if the action must be served, he keeps a copy of it to open the record of the court.

**“813.3** Actions for judicial separation as to property, separation as to bed and board, in nullity of marriage or for divorce, actions relating to filiation except proceedings in respect of placement or adoption, applications for the deprivation or restoration of parental authority and applications for the surviving spouse's compensatory allowance are taken by a declaration. Other demands are taken by motion.

**“813.4** Each spouse may advise the registrar of the registration division in which an immoveable on which either spouse may claim a right under his matrimonial regime or the immoveable used as principal family residence, if owned by either of them, is situated, of any action for judicial separation as to property, separation as to bed and board, in nullity of marriage or for divorce.

The registrar is advised by serving a notice on him containing a description of the immoveables; the registrar must forthwith register the action in the index of immoveables.

A judge may order the cancellation of the registration made against an immoveable, with or without security.

“ §2.—*Declarations*

**“813.5** The declaration must be accompanied with a notice to the adverse party to appear within twenty days of service of the declaration, in the case of personal service, or within forty days in the case of service made outside Québec or according to another mode.

Within the time fixed for appearance, the defendant states in writing both the demands he intends to vindicate and the grounds on which he intends to contest the declaration after serving them on the plaintiff.

**“813.6** The action may be inscribed for proof and hearing before the court at the expiry of the time prescribed to appear and to plead.

“ §3.—*Motions*

**“813.7** Every motion must be accompanied with a notice to the other party of the date of its presentation; it must be served not later than twenty days before that date.

However, in proceedings relating to the obligation of support or child custody, or in the case of incidental motions, service need not be made more than five days prior to the presentation of the motion.

In urgent cases the judge may always reduce the time prescribed for service.

**“813.8** On the day fixed for the presentation of a motion, the defendant states both the demands he intends to vindicate and the grounds on which he intends to contest the motion.

He may, with leave of the court, contest the motion in writing within such time and on such conditions as the court may determine. In such a case, the demands and grounds for contestation must be served on the defendant not later than five days before the date of presentation of the motion.

“ §4.—*Joint actions*

**“814.** Subject to Chapter Five of this Title, a joint action is taken by filing in the office of the court a declaration or a motion signed by the parties and, if such is the case, by their attorneys, wherein the object and ground of their action, their allegations as well as their common and respective conclusions are stated.

**“814.1** The prothonotary must, within twenty days of the filing, notify the parties and their attorneys of the date fixed for the hearing of their action.

**“814.2** Where one party discontinues his action, he or the other plaintiff may continue the suit alone. The action is then amended, served on the other party and continued in accordance with the rules provided for actions by way of a declaration or a motion.

## “SECTION II

### “PROCEEDINGS

**“815.** In matters concerning filiation, the court may, even of its own motion, order the impleading of any person whose interests may be affected by the judgment.

**“815.1** By way of exception, the judge or the court may, in cases where the parties are represented by attorneys, examine, in the presence of the attorneys, a consenting party outside the presence of the other party or a consenting witness outside the presence of the parties provided the decision is substantiated and notified to the parties. In such a case, the attorneys may ask the party or witness any question pertaining to the litigation.

Unless waived by the parties, the depositions are then taken in stenography or recorded; the minutes of the declaration and a transcription of the stenographer's notes or a copy of the recording are transmitted to the parties, on demand.

**“815.2** At any time during the hearing, the court may order, even of its own motion, the production of any additional evidence or the summoning of any person whose testimony it considers expedient, or convene, for a hearing, any person whose interests could be affected by the judgment.

**“815.3** At any time before judgment the court may, for a period of thirty days, adjourn or suspend the hearing of the case in view of favouring the reconciliation or the conciliation of the parties.

At the expiry of that period, unless the parties agree expressly to an extension for the period fixed by them, or the court itself orders an extension, which cannot exceed thirty days, the hearing is continued.

**“815.4** Unless the parties consent thereto, nothing said or written during a conference of conciliation or reconciliation is admissible as evidence in a court proceeding. However, a reference to the conclusions of the conciliation may be filed in the record.

**“815.5** No information that would allow the identification of a party to a proceeding or of a child whose interest is at stake in a proceeding may be published or broadcast unless the court or the law authorizes it or unless that publication or broadcast is necessary to permit the application of an Act or a regulation.

Furthermore, the judge may, in a special case, prohibit or restrict, on such conditions as he may deem fair and reasonable, the publication or broadcast of information pertaining to a court hearing or access to a record of the court.

### “SECTION III

#### “REPRESENTATION AND HEARING OF CHILDREN

**“816.** Where, in a proceeding, the judge or the court finds that the interest of a child is at stake and that it is necessary for the safeguard of that interest that the child be represented, he or it may, even of his or its own motion, adjourn the hearing of the action until an attorney is entrusted with representing the child.

**“816.1** To ensure proper representation of the child, the judge must, in all cases where the interest of the child is opposed to that of the person having parental authority or that of the child’s tutor and where the child is unable to determine his own interest, appoint a tutor *ad hoc* to the child.

**“816.2** Where a child is heard before a judge or the court, he may be accompanied by a person capable of assisting or reassuring him.

### “SECTION IV

#### “JUDGMENTS

**“817.** In granting a separation as to bed and board, the nullity of a marriage or a divorce, the court adjudicates in respect of incidental motions particularly motions concerning the custody, support and education of the children and the support due to the spouse and children, even children of full age.

**“817.1** Where the court renders a judgment giving rise to a rectification of an act of civil status, it orders the depositary, even *ex officio*, to rectify the registers of civil status.

**“817.2** The prothonotary of the court which has rendered a judgment maintaining an action for judicial separation as to property, separation as to bed and board, in nullity of marriage or for divorce must forthwith give notice of the judgment to the person entrusted with keeping the central register of matrimonial regimes.

He must also forthwith serve the judgment, by registered or certified mail, on the depositary of the minute of the marriage contract and, where such is the case, on the depositary of the minute of any contract to modify the matrimonial regime; the depositary must make a reference to the judgment served on him in the minute and any copy thereof issued by him, indicating the date of the judgment, the number of the record, the name of the district and the name of the court.

**“817.3** After the final judgment has acquired the status of *res judicata*, the court, where difficulties are likely to prevent the voluntary execution of the judgment may make, on a joint motion of the parties, an order intended to facilitate voluntary execution in the manner most appropriate to the interests of the parties.

## “CHAPTER II

### “APPLICATIONS PERTAINING TO MARRIAGE

#### “SECTION I

##### “APPLICATIONS BY PERSONS UNDER LEGAL INCAPACITY

**“818.** The minor who applies for a dispensation from the age requirement in order to contract marriage must, not later than five days prior to the presentation of a motion, serve his application on the person having parental authority and, if such is the case, on his tutor and on the persons who have custody of him.

**“818.1** The minor who applies for a leave to make marriage covenants must, not later than five days prior to the presentation of a motion, serve his application on the person having parental authority or, if such is the case, on his tutor. He must join a draft of his marriage contract to his application.

## “SECTION II

## “OPPOSITIONS TO MARRIAGE

**“819.** Opposition to marriage must, not later than five days prior to the presentation of the motion, be served on the officiant, on the future spouses and, if such is the case, on the persons who must be called upon to give their opinion on an application for dispensation from age requirement. In cases of urgency, the judge may reduce the prescribed time.

**“819.1** Unless the opposition is overtly ill-founded or the examination of the opposant shows that the opposition is frivolous, the judge admits the opposition and fixes an early date to hear it.

Admission of the opposition is a bar to the solemnization of the marriage.

**“819.2** The opposition must be presented on the date fixed, failing which any party may obtain a judgment dismissing the opposition. On being served a copy of the judgment, the officiant may proceed with the solemnization of the marriage.

**“819.3** If the opposition is dismissed, the court may, on a motion, condemn the opposant immediately to damages or fix a date to hear the proof on the damages.

**“819.4** Appeal from a judgment on opposition has precedence over any other appeal.

## “CHAPTER III

## “ACTIONS IN NULLITY OF MARRIAGE

**“820.** An action for the annulment of a marriage contracted without a dispensation regarding age by a person between sixteen and eighteen years of age must be served on the spouses and on the persons who should have been summoned to give their opinion if a dispensation regarding age had been applied for.

## “CHAPTER IV

## “ACTIONS FOR JUDICIAL SEPARATION AS TO PROPERTY

**“821.** No action in judicial separation as to property may be heard unless notice thereof is served, not later than twenty days previously, in a newspaper circulated in or as near as possible to the locality where the residence of the defendant is established.

## “CHAPTER V

### “JOINT ACTIONS FOR SEPARATION AS TO BED AND BOARD AND FOR DIVORCE ON A DRAFT AGREEMENT

**“822.** Spouses who apply jointly for separation as to bed and board or for divorce, settling the consequences thereof in a draft agreement, must file at the office of the court a declaration signed by each of them and, if such is the case, their attorneys.

**“822.1** The draft agreement is dated and signed by the spouses. It contains a full settlement of the consequences of their separation as to bed and board or of their divorce and indicates, if such is the case, the person entrusted with the liquidation of the matrimonial regime.

The draft agreement also settles the situation of the spouses during the proceedings unless they join to their declaration a provisional covenant bearing on the various points that may be the subject of provisional measures. This covenant must also be dated and signed by the spouses.

**“822.2** The judge presiding at court may, to verify that the spouses truly consent, hear the spouses separately, in the presence of their attorneys, if such is the case.

After ascertaining the admissibility of the action and verifying that the spouses truly consent, and possibly having the clauses of the provisional covenant that would appear to him to be contrary to the interests of the children stricken out or amended, the judge examines the final draft agreement with the spouses and, if such is the case, their attorneys.

**“822.3** If the judge presiding at court finds that the draft agreement presented to him does not sufficiently preserve the interests of the children or of either spouse, he may dismiss the action for separation as to bed and board or for divorce or adjourn his decision until an amended draft agreement is presented.

**“822.4** Except where there is an appeal, the action for separation as to bed and board or for divorce will lapse if the spouses omit to present an amended draft agreement within three months from the order of adjournment, unless the court extends the time prescribed, on the joint motion of the parties.

The action will also lapse if either of the spouses discontinues the action.

**“822.5** When granting separation as to bed and board or divorce following a joint application accompanied with a draft agreement, the court adjudicates in accordance with the terms and conditions of the agreement.

## “CHAPTER VI

### “PROCEEDINGS PERTAINING TO ADOPTION

#### “SECTION I

##### “GENERAL PROVISIONS

**“823.** Proceedings in matters pertaining to the adoption of a minor must be served on the director of youth protection having the child’s place of residence under his jurisdiction. The director may intervene of right in connection with the proceedings.

**“823.1** Whenever notice of a proceeding must be served on a party or on an interested person, the notice must preserve the anonymity of the adopters to the father, mother and tutor, and vice versa. Furthermore, the notice must contain a statement of the facts and of the grounds invoked by the applicant and reproduce the conclusions sought.

Notices may be served by registered or certified mail.

**“823.2** In any proceeding, unless all the parties agree to another procedure, the court must take the measures necessary to ensure that the persons who apply for the return of a child are not confronted with the adopters and are not able to identify them or be identified by them.

**“823.3** The court must admit to its hearings a member of the Comité de la protection de la jeunesse or any other person authorized in writing by the Comité to assist thereat. In no case may such persons disclose any information thus obtained or be compelled to do so.

#### “SECTION II

##### “APPLICATIONS FOR THE RETURN OF A CHILD

**“824.** Any application made by the person who, having given general consent to adoption and having omitted to withdraw it within the prescribed time, wishes the child to be returned to him, must be served on the director of youth protection. The latter must give notice to the person having or exercising parental authority, to the father or mother if they no longer have parental authority and, if such is the case, to the tutor.



In the case of special consent to adoption, the application for the return of a child is served on the person to whom the child was entrusted.

### "SECTION III

#### "DECLARATIONS OF ELIGIBILITY FOR ADOPTION

**"824.1** The motion for a declaration of eligibility for adoption is served on the father and mother of the child, if known, on the child's tutor, if such is the case, and on the child, if fourteen years of age or older. It is also served on a child ten years of age or older if so ordered by the judge.

Service of the motion may be made by registered or certified mail.

### "SECTION IV

#### "APPLICATIONS FOR PLACEMENT AND ADOPTION

**"825.** The application for placement of the child is presented by the adopter and by the director of youth protection, except in the case of special consent to adoption, where it may be presented by the adopter acting alone.

In the case where the adopter applies for the placement of a child who is not domiciled in Québec or does not reside therein, the application may also be made by the adopter and by a person or agency legally qualified to act as intermediary in matters of adoption.

**"825.1** A notice of the application for placement stating the names of the applicants and their place of domicile is served on the child ten years of age or older. Where the child's father, mother or tutor has given consent to adoption during the year preceding the application, notice of the application is served on him or her by the director of youth protection.

**"825.2** The application for adoption of a person of full age must be served on the adopted person and, as the case may be, on his spouse, on his children fourteen years of age or older and on his ascendants.

**"825.3** The motion for the revocation of an order of placement must be served on the director of youth protection, who gives notice of it to the adopters and the adopted person.

**"825.4** The application for adoption is presented by the adopter. If the adoption is made by two persons, the application is made jointly.

**“825.5** Where a report indicating that a child has not adapted to his adopting family is filed with the court, the court sends a copy of the report to the adopter and, if such is the case, to the tutor or attorney of the child. It notifies them at the same time of the period granted to contest the report.

The court may, if it considers it expedient, send a copy of the report to the adopted person if he is fourteen years of age or older, but it must send it to him if the court intends to refuse adoption on the basis of the report.

## “CHAPTER VII

### “PROCEEDINGS RELATING TO PARENTAL AUTHORITY

**“826.** An application for deprivation of parental authority may be presented by any interested person and is served on the child’s father and mother and on his tutor or, if the child has no tutor, on the director of youth protection having the child’s place of residence under his jurisdiction; the director may then intervene of right in relation to the application.

**“826.1** A motion presented by a deprived father and mother or by either of them to have the withdrawn rights restored must be served on the persons who were parties to the motion for deprivation and on the person having parental authority and, if such is the case, on the tutor.

**“826.2** During the proceedings, the court may order, in respect of the custody and maintenance of the child, any provisional measure it may deem expedient.

**“826.3** The judge presiding at court may, even *ex officio*, convene a family council to obtain its opinion on the designation of the person who is to exercise parental authority or on the appointment of a tutor.

## “CHAPTER VIII

### “MISCELLANEOUS PROVISIONS

**“827.** The motion for a change of name and correction of the registers of civil status of a minor must be served on the child’s father and mother, on his tutor, if such is the case, and on the child if he is fourteen years of age or older.

**“827.1** The application of a surviving spouse to have established the allowance due to him as compensation for his contribu-

tion to the enrichment of the patrimony of his deceased spouse is brought by a declaration which must be served on all the heirs and legatees who might be bound to discharge the debt."

## PART II

### AMENDMENTS TO VARIOUS ACTS

**23.** Section 39 of the Industrial Development Assistance Act (R.S.Q., chapter A-13) is amended by replacing paragraphs *b* and *c* of subsection 2 by the following paragraphs:

"(b) persons are connected by marriage if one is married to the other or to a person connected with the other by blood relationship or by adoption;

"(c) persons are connected by adoption if one has been adopted, legally or *de facto*, and would be connected with the other by blood relationship if his filiation were established by blood rather than by adoption."

**24.** Section 80 of the Legal Aid Act (R.S.Q., chapter A-14) is amended by inserting, after subparagraph *b*, the following subparagraph:

"(b.1) determine, taking into account the financial resources of a child or of his father and mother, the criteria according to which legal aid may be granted in order to ensure representation of a child before the court;".

**25.** Section 1 of the Family Allowances Act (R.S.Q., chapter A-17) is amended by striking out the words "legitimate, natural or adoptive" in the second line of paragraph *c* and in the second line of paragraph *d*.

**26.** Section 49 of the Act respecting insurance (R.S.Q., chapter A-32) is amended by replacing subparagraphs *b* and *c* of paragraph 5 by the following subparagraphs:

"(b) persons are connected by marriage if one is married to the other or to a person who is connected with the other by blood relationship or by adoption; and

"(c) persons are connected by adoption if one has been adopted, legally or *de facto*, and would be connected with the other by blood relationship if his filiation were established by blood rather than by adoption."

**27.** Section 40 of the Act respecting the Caisse de dépôt et placement du Québec (R.S.Q., chapter C-2) is amended by replacing subparagraphs *b* and *c* of the third paragraph by the following subparagraphs:

“(b) persons are connected by marriage if one is married to the other or to a person who is connected with the other by blood relationship or by adoption; and

“(c) persons are connected by adoption if one has been adopted, legally or *de facto*, and would be connected with the other by blood relationship if his filiation were established by blood rather than by adoption.”

**28.** Section 3 of the Act respecting the change of name and of other particulars of civil status (R.S.Q., chapter C-10) is amended by replacing paragraphs *f* and *g* by the following paragraphs:

“(f) the name of his mother;

“(g) the name of his spouse and the date and place of their marriage;”.

**29.** Section 19 of the said Act is amended by striking out the word “irrévocable” in paragraph *d* of the French text.

**30.** Section 23 of the Charter of human rights and freedoms (R.S.Q., chapter C-12) is amended by replacing the third paragraph by the following paragraph:

“Furthermore, in proceedings relating to family law matters, hearings in first instance are held *in camera* unless the tribunal decides otherwise on the motion of all or one of the parties and if it deems it advisable in the interest of justice.”

**31.** The Companies and Partnerships Declaration Act (R.S.Q., chapter D-1) is amended by repealing section 19 and by striking out the expression “Division IV” and the heading preceding section 19.

**32.** Section 4 of the Mining Duties Act (R.S.Q., chapter D-15) is amended by replacing paragraphs *b* and *c* by the following paragraphs:

“(b) persons are connected by marriage if one is married to the other or to a person connected with the other by blood relationship or by adoption; and

“(c) persons are connected by adoption if one has been adopted, legally or *de facto*, and would be connected with the other by blood relationship or by marriage if his filiation were established by blood rather than by adoption.”

**33.** Section 1 of the Taxation Act (R.S.Q., chapter I-3) is amended by repealing paragraph *a* of the definition of the word “child”.

**34.** Section 3 of the said Act is amended

(1) by replacing that part of paragraph *a* which precedes subparagraph *i* by the following:

“(a) where the amount was received by the surviving spouse, the lesser of:”;

(2) by replacing that part of paragraph *b* which precedes subparagraph *i* by the following:

“(b) where the employee died without leaving a surviving spouse or where no amount is deductible in computing for any year the death benefits received by the surviving spouse in respect of his years of service in an office or employment, the lesser of:”.

**35.** Section 21 of the said Act is amended by replacing paragraphs *b* and *c* by the following paragraphs:

“(b) persons are connected by marriage if one is married to the other or to a person connected with the other by blood relationship or by adoption; and

“(c) persons are connected by adoption if one has been adopted, legally or *de facto*, and would be connected with the other by blood relationship or by marriage if his filiation were established by blood rather than by adoption.”

**36.** Section 1015 of the said Act is amended by replacing the word “widow” in the second line of subparagraph *d* by the words “surviving spouse”.

**37.** Section 167 of the Education Act (R.S.Q., chapter I-14) is amended by striking out the word “women,” in the second line of the second paragraph.

**38.** Section 19 of the Act respecting the Ministère de la justice (R.S.Q., chapter M-19) is amended by replacing the last two lines by the following lines: “transmitted to him under article 474 of the Civil Code and article 817.2 of the Code of Civil Procedure.”

**39.** The said Act is amended by inserting, after section 19, the following section:

“**19.1** The notice given according to section 19 must state

(1) the surname and given names and the date of birth of each spouse,

(2) the surname and given names of each spouse’s father and mother, if they are known,

(3) the date of every marriage contract made between the spouses and the surname, given names and domicile of the notary who executed it, and

(4) the date and effect of every judgment granting judicial separation as to property, separation as to bed and board, the nullity of the marriage or a divorce, the number of the record, the name of the district and the name of the court.”

**40.** Section 3 of the Act respecting the Ministère des affaires sociales (R.S.Q., chapter M-23) is amended by replacing paragraph *k* by the following paragraphs:

“(k) determine the possibilities for the adoption of children domiciled or residing outside Québec, taking into account the objectives defined by the Minister of Cultural Communities and Immigration under subparagraph *h* of the fourth paragraph of section 3 of the Act respecting the Ministère des Communautés culturelles et de l’Immigration (R.S.Q., chapter M-16);

“(l) obtain from the government departments and from every public or private agency all information available for the purposes of implementing the department’s policy.”

**41.** Section 4 of the Notarial Act (R.S.Q., chapter N-2) is amended by repealing subsection 2.

**42.** Section 8 of the Public Protector Act (R.S.Q., chapter P-32) is amended by replacing the words “to the widow” in the third line of the fifth paragraph by the words “to the surviving spouse”.

**43.** Section 33 of the Youth Protection Act (R.S.Q., chapter P-34.1) is amended by adding the following paragraph:

“He shall also exercise such powers and carry out such duties as may be conferred upon him in matters of adoption.”

**44.** The said Act is amended by replacing the title of Division VII of Chapter IV by the following title:

“TUTORSHIPS AND ADOPTIONS”.

**45.** Section 71 of the said Act is amended by striking out the third paragraph.

**46.** The said Act is amended by inserting, after section 72, the following sections:

**“72.1** The director, if he considers that adoption is the means most likely to ensure the respect of the child’s rights, must take all reasonable measures to facilitate it, in particular,

- (a) receive the general consents required for the adoption;
- (b) take charge of the child entrusted to him for adoption;
- (c) study, as and when the need arises, the applications for adoption;
- (d) see to the placement of a child;
- (e) serve as an intermediary, in conformity with section 72.3, for the adoption of a child who is domiciled or resident outside Québec;
- (f) if necessary, cause the child to be judicially declared eligible for adoption.

**“72.2** The Minister of Social Affairs may, in accordance with the Act, enter into an agreement with another government or with any of its departments or bodies in respect of the adoption of children domiciled or residing outside Québec.

The Minister of Social Affairs may also enter into such an agreement with every other organization dealing mainly with the defence of children’s rights, the promotion of their interests and the improvement of their living conditions.

**“72.3** An adopter, domiciled or residing in Québec, may adopt a child domiciled or residing outside Québec only through the intermediary of the Minister of Social Affairs, the director or any government, department or body acting in accordance with an agreement referred to in section 72.2, whether the adoption takes place in Québec or outside Québec.

The adopter’s application must also be examined by the director.

**“72.4** The Minister of Social Affairs may, in such cases and according to such criteria and conditions as provided by regulation, grant financial assistance in order to further the adoption of a child.”

**47.** The said Act is amended by inserting, after section 131, the following sections:

**“131.1** As soon as the order of placement is granted, the director gives to the adopter requesting it a summary of the child’s antecedents.

He also gives to the parents requesting it a summary of the adopter's antecedents.

Every child is entitled to receive, on request, a summary of his own antecedents if he is fourteen years of age or older."

**"131.2** Every summary must preserve the parents' or the adopter's anonymity, and must comply with the norms provided by regulation."

**48.** Section 132 of the said Act is amended by adding, after subparagraph *d*, the following subparagraphs:

"(e) to prescribe the norms relating to the content of the summary of the child's and the adopter's antecedents;

"(f) to determine the criteria to be taken into account by the Minister of Social Affairs to fix the amount of the financial assistance provided in section 72.4, and the conditions to be met by the adopter applying for such assistance."

**49.** The said Act is amended by inserting, after section 135, the following section:

**"135.1** Whether the placement or the adoption takes place in or outside Québec and whether the child is domiciled in or outside Québec, any person who

(a) gives or receives or accepts to give or receive, directly or indirectly, a payment or a benefit either for finding a placement or contributing to a placement with a view to adoption, or for the adoption of a child,

(b) contrary to this Act, attempts to place or contributes to the placement of a child with a view to his adoption, or

(c) contrary to this Act, adopts, attempts to adopt or contributes to the adoption of a child,

is guilty of an offence and is liable, on summary proceedings, in addition to payment of the costs, to a fine of not more than \$1 000 or, failing payment, to imprisonment for not more than six months in the case of an individual, and not more than \$5 000 in the case of a corporation.

In the case of a subsequent offence, the fines provided for in the preceding paragraph are increased to \$2 000 and one year in the case of an individual and to \$10 000 in the case of a corporation."

**50.** Section 3 of the Settlers Protection Act (R.S.Q., chapter P-38) is amended by replacing the word "widow" in the ninth line of the second paragraph by the words "surviving spouse".



**51.** Section 4 of the said Act is amended by replacing the word “widow” in the fourth line of the first paragraph by the words “surviving spouse”.

**52.** Section 172 of the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) is amended by striking out the words “legitimate or natural” in the third paragraph.

**53.** Section 97 of the Act respecting the Civil Service Superannuation Plan (R.S.Q., chapter R-12) is amended by replacing the word “widow” in the first line of that section by the words “surviving spouse”.

**54.** Section 107 of the said Act is replaced by the following section:

**“107.** If the officer dies before an additional pension is granted and an additional half pension does not become payable, the amount of the transferred contribution must be returned to the surviving spouse or, if there is no surviving spouse, to the children or, failing children, to the legal representatives.”

**55.** Section 14 of the Cooperative Syndicates Act (R.S.Q., chapter S-38) is amended by striking out the words “and married women, even common as to property,” in the first line of the third paragraph.

**56.** The Courts of Justice Act (R.S.Q., chapter T-16) is amended by replacing

(1) the word “widow” by the words “surviving spouse” in section 106;

(2) the word “widows” by the words “surviving spouses” in section 108;

(3) the word “widow” by the words “surviving spouse” in section 108.2.

**57.** Section 114 of the said Act is amended by replacing paragraph *b* by the following paragraph:

“(b) cases of adoption;”.

### PART III

#### FINAL AND TRANSITIONAL PROVISIONS

**58.** Section 68 of the Act to establish a new Civil Code and to reform family law (1980, chapter 39) is amended

(1) by replacing, in the first paragraph, the words “and divorces granted” by the word “granted”;

(2) by replacing, in the first paragraph, the figure “571” by the figure “536”;

(3) by adding the following paragraph:

“Similarly, divorces granted prior to the coming into force of articles 556 to 559 of the Civil Code of Québec with regard to effects that are connected with the settlement of the spouses’ financial interests, or prior to the coming into force of articles 560 to 571 of the said Code with regard to other effects of the divorce, continue to be subject to former articles 206 to 217 of the Civil Code of Lower Canada and to the Divorce Act (R.S.C., 1970, chapter D-8).”

**59.** Section 69 of the said Act is amended by inserting in the first paragraph the word “former” between the words “and” and “articles 813 to 820”.

**60.** Section 70 of the said Act is amended by adding, at the end, the following paragraph:

“The foregoing does not have the effect of preventing the immediate application of articles 556 to 559 of the said Code to the cases pending at the coming into force of the said articles.”

**61.** Section 71 of the said Act is amended

(1) by striking out in the first paragraph, the words “or for divorce”;

(2) by replacing, in the first paragraph, the figure “571” by the figure “536”;

(3) by adding the following paragraph:

“The same rule applies to applications for divorce made after the coming into force of articles 538 to 542.”

**62.** The said Act is amended by inserting, after section 71, the following section:

**“71.1** From the coming into force of articles 439, 526, 528 or 535 of the Civil Code of Québec, the articles of Title Two of Book Two of the said Code relating to divorce are deemed to be in force to such extent as they are necessary to allow the application of the provisions of the said Code concerning the effects of nullity of marriage or the grounds, procedure and effects of separation as to bed and board.”

**63.** Articles 816 to 816.2 of the Code of Civil Procedure, enacted by section 22 of this Act, apply to cases that are pending at the time of the coming into force of the said articles.

**64.** Actions pending at the coming into force of a provision of this Act which provides a new procedure in their respect may be continued and decided in accordance with the former procedure if all parties agree thereto.

**65.** The provisions of the Code of Civil Procedure relating to divorce do not apply as long as articles 538 to 542 of the Civil Code of Québec are not the subject of a proclamation.

**66.** Every regulation made under the Adoption Act (R.S.Q., chapter A-7) remains in force, to the extent that it is consistent with the Civil Code, the Code of Civil Procedure and the Youth Protection Act (R.S.Q., chapter P-34.1), until it is repealed or replaced.

**67.** This Act comes into force, in whole or in part, on the dates to be fixed by proclamation of the Government.