

SIXTH SESSION

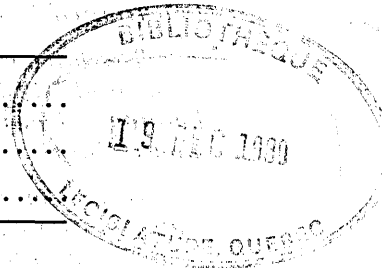
THIRTY-FIRST LEGISLATURE

NATIONAL ASSEMBLY OF QUÉBEC

Bill 22

An Act to amend the Youth Protection Act

First reading
Second reading
Third reading



M. MARC-ANDRÉ BÉDARD
Minister of Justice

and

M. DENIS LAZURE
Minister of Social Affairs

L'ÉDITEUR OFFICIEL DU QUÉBEC

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EXPLANATORY NOTES

This bill proposes amendments to the Youth Protection Act.

One object of the bill is to have the definition of the word "body" embrace elementary, secondary and college teaching institutions and to amend the definition of the expression "security unit" found in the act.

A second object is to authorize the general manager of a reception centre to restrict the right of a child to communicate with certain persons and allow an appeal to the Youth Court from a decision to impose this restriction.

Another object is to authorize the Comité de la protection de la jeunesse to delegate the discharge of certain of its responsibilities to a limited number of its members.

The bill provides that nearly all offences under the Highway Code and all traffic and parking violations under municipal by-laws alleged against a child are to be referred directly to the Youth Court.

It also provides that the maximum duration of a child's voluntary foster care with a foster family or in a reception centre will be one year rather than six months, as now, and that it may be prolonged only with his parents' consent, or his own consent if he is fourteen or over.

The bill adds to the number of situations in which the Comité de la protection de la jeunesse may refer a child's case to the Youth Court, and empowers the Court to make certain of its orders provisional.

A further provision is that the maximum period of foster care in a security unit for a child of fourteen or over will be six instead of the present three months, and will be extendible for a further maximum of six months.

Lastly, it is designed to reinforce the confidentiality of the records of the Youth Court, and to enable the Court, in certain cases, to issue a warrant to have a child brought before the director of youth protection.

Bill 22

An Act to amend the Youth Protection Act

HER MAJESTY, with the advice and consent of the National Assembly of Québec, enacts as follows:

1. Section 1 of the Youth Protection Act (1977, chapter 20) is amended:

(1) by replacing subparagraph *d* of the first paragraph by the following subparagraph:

“(d) “body” means any body established under a law of Québec principally dealing with the defence of the rights, the promotion of the interests and the improvement of the living conditions of children and any institution giving instruction at the elementary, secondary or college level;”;

(2) by replacing subparagraph *h* of the first paragraph by the following subparagraph:

“(h) “security unit” means any architecturally restrictive place located in a reception centre where, by the appropriate staff, rehabilitation services are furnished with a view to the reintegration of the child into society, and where special internal rules and measures designed to restrict the child’s movements are applied for his own benefit and the protection of society;”.

2. Section 8 of the said act is replaced by the following section:

“**8.** A child is entitled to receive adequate health services, social services and educational services, on all scientific, human and social levels, continuously and according to his personal requirements, account being taken of the organization and resources of the establishments or bodies in the education field providing such services.”

3. Section 9 of the said act is replaced by the following section:

“9. Any child placed in a reception centre or foster family has the right to communicate in all confidentiality with his parents, his brothers and sisters, his advocate, the director who has taken charge of him, the Comité and the judges and clerks of the Court.

He may also communicate in all confidentiality with any other person unless the general manager of the reception centre considers it to be in the best interests of the child to prevent him from communicating with that person.

The child may refer to the Court any decision of the general manager preventing him from communicating with any person. This motion is heard and decided by preference.

The Court shall confirm or quash the decision of the general manager. It may, in addition, order the general manager to take certain measures thenceforth applicable to the child.”

4. Section 15 of the said act is replaced by the following section:

“15. Except for the cases contemplated in the first paragraph of section 23.1, six members including the president or the vice-president are a quorum of the Comité. In case of a tie-vote, the president or, if he is absent, the vice-president has a casting vote.”

5. Section 23 of the said act is amended:

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

“(c) it shall, upon demand or at its discretion, reexamine the situation of a child taken in charge by the director;”;

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

“(l) it may carry out studies and research on any question related to youth protection.”

6. The said act is amended by adding, after section 23, the following section:

“23.1 The duties provided for in paragraph *c, d* or *f* of section 23 may be discharged by a group of not less than three members of the Comité, designated by it and including the president; the president may designate the vice-president to replace him.

The Comité may review any decision taken under the first paragraph.”

7. The said act is amended by adding, after section 31, the following section:

“31.1 If the director is temporarily absent or unable to act, he is replaced by a person designated by the board of directors who appointed him.”

8. Section 38 of the said act is amended:

(1) by striking out paragraph *e*;

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

“(i) he leaves a hospital centre, a reception centre, a foster family or his own home without authorization.”

(3) by adding, at the end, the following paragraph:

“A child’s security or development may be considered to be in danger if he is of school age and does not attend school, or is frequently absent without reason.”

9. Section 39 of the said act is amended by replacing the last three paragraphs by the following paragraphs:

“Every professional who, by the very nature of his profession, provides care or any other form of assistance to children and who, in the discharge of his duties, has reasonable cause to believe that the security or development of a child is in danger within the meaning of subparagraph *a, b, c, d, g, h* or *i* of the first paragraph, or of the second paragraph of section 38 is bound to bring the situation to the attention of the director without delay. The same obligation devolves upon any employee of an establishment, any teacher or any policeman who, in the discharge of his duties, has reasonable cause to believe that the security or development of a child is in danger within the meaning of the said subparagraphs or of the second paragraph of section 38.

Any person, other than a person contemplated in the preceding paragraph, who has reasonable cause to believe that the security or development of a child is in danger within the meaning of paragraph *a, b, c, d, g, h* or *i* of the first paragraph, or of the second paragraph of section 38 may bring the situation to the attention of the director.

This section applies notwithstanding section 9 of the Charter of human rights and freedoms (R.S.Q., c. C-12) but the first and second paragraphs do not apply to an advocate who, in the discharge of his profession, receives information respecting a situation contemplated in section 38.”

10. Section 40 of the said act is amended by adding, at the end, the following paragraph:

“The first paragraph does not apply to an offence against the Highway Code (R.S.Q., c. C-24), except an offence contemplated in section 83 or 84 of the said code, a regulation made thereunder or a municipal parking or traffic by-law.”

11. Section 46 of the said act is amended by replacing paragraph *b* by the following paragraph:

“(b) entrusting the child to a reception centre, a foster family, a hospital centre, an appropriate body or any other person without delay;”.

12. Section 51 of the said act is amended by replacing the second paragraph by the following paragraph:

“For that purpose, the director shall take charge of the child and he may see to the application of any voluntary measures in accordance with section 54. In such a case, he must inform the child and his parents of their right to refuse the application of such measures.”

13. Section 54 of the said act is amended by adding, after the word “following” in the first line, the words “, in particular,”.

14. Section 55 of the said act is replaced by the following section:

“**55.** The social service centre and every person or body that agrees to apply voluntary measures must, by every available means, facilitate the carrying out of the measures.”

15. Section 56 of the said act is replaced by the following section:

“**56.** The maximum period of voluntary foster care in a foster family or in a reception centre is one year. However, the director may, if necessary, extend the term of the foster care for successive periods of not more than six months at a time; he must then obtain the consent of the child’s parents and of the child if he is fourteen years of age or over.

Any reception centre designated by the director is bound to admit the child.”

16. Section 60 of the said act is amended by replacing subparagraph *a* of the first paragraph by the following subparagraph:

“(a) where an act contrary to any law or regulation in force in Québec is imputed to the child except an offence contemplated in the second paragraph of section 40;”.

17. Section 64 of the said act is amended by replacing the first paragraph by the following paragraphs:

“64. Where a period of compulsory foster care terminates during a school year, the reception centre must continue to provide the child with foster care until the end of the school year if the child, being fourteen years of age or over, consents to it; when the child is less than fourteen years of age, foster care shall continue with the consent of the parents and the director.

Where a period of compulsory foster care ends during a school year, the foster family may continue to provide foster care to the child on the same conditions.”

18. Section 74 of the said act, replaced by section 14 of chapter 42 of the statutes of 1979, is again replaced by the following section:

“74. Except in the urgent cases provided for in section 47, the Court shall take cognizance of the case of a child whose security or development is considered to be in danger or to whom an act contrary to any act or regulation in force in Québec is imputed, only by reference by the director acting in cooperation with a person designated by the Minister of Justice, or, in the case contemplated in paragraph *f* of section 23, by the Comité or by the arbitrator designated by it, or by another person acting pursuant to a decision taken in conformity with this act to refer to the Court the case of a child.

The first paragraph does not apply to an offence contemplated in the second paragraph of section 40. In such a case, a demand for payment of a fine and costs may be made to the child, but not for a fine in excess of \$25. On default of payment, the case may be referred to the Court by any person authorized to bring an action under the code or the regulations referred to in the second paragraph of section 40.

The Court may also take cognizance of the case of a child by reference by the child himself or at his request, or by his parents or at their request, if they disagree with

(a) a joint decision of the director and a person designated by the Minister of Justice or a decision of the Comité or the arbitrator under paragraph *f* of section 23;

(b) the decision to prolong the period of voluntary foster care in a reception centre or a foster family;

(c) the decision of the director, under section 49, determining whether or not a child's security or development is in danger;

(d) the decision of the general manager, in accordance with section 9."

19. The said act is amended by adding, after section 74, the following section:

"74.1 The Comité may refer to the Court every situation where it is of the opinion that the security or development of the child is in danger."

20. The said act is amended by adding, after section 76, the following section:

"76.1 The Court may, if it considers it necessary for the security or development of the child, give any order for the execution, while proceedings are in progress, of a measure applicable under section 54.

The Court may review its decision at any time."

21. Section 79 of the said act is replaced by the following section:

"79. The Court shall order the provisional compulsory foster care of a child if, after an assessment of the situation, it concludes that the child's remaining with or returning to his parents or to his residence is likely to cause him serious prejudice.

The Court shall without delay notify the parents of the child who is the subject of a measure carried out under this section.

A provisional compulsory foster care measure may not exceed twenty-one days. The Court may, however, prolong it for a period not longer than ten days where the facts justify such action."

22. Section 86 of the said act is replaced by the following section:

"86. Before rendering a decision on the measures applicable, the Court may request the director to make a study of the social situation of a child who is guilty of an offence contemplated in the second paragraph of section 40. In all other cases, the Court must demand such a study.

The director may, at his discretion, or must, if the Court so requires, attach to it a psychological or medical assessment of the child and of the members of his family or any other expert opinion that may be useful.

The cost of such studies, assessments or expert opinions shall be at the expense of the social service centre."

23. Section 91 of the said act is amended:

(1) by replacing the part preceding paragraph *a* by the following:

"91. Where the Court concludes that the security or the development of the child is in danger or that the child is guilty of an act contrary to an act or a regulation in force in Québec, it may, for a maximum period of one year, order the execution of a measure applicable under section 54. It may, in addition,";

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

"(e) order the foster care of a child fourteen years of age or over in a security unit, for a maximum period of six months, if it is of opinion that the child will attempt to elude the application of the law or that he represents a danger to himself or to others.";

(3) by adding, at the end, the following paragraph:

"An order rendered under subparagraph *e* of the first paragraph may be extended for a maximum period of six months if the director, after consultation with the general manager of the reception centre and after notifying the parents and the child, demonstrates to the Court that the measure is necessary in the interest of the child."

24. Section 96 of the said act is amended by replacing the part preceding subparagraph *a* of the first paragraph by the following:

"96. Every record of the Court is confidential. No person may take cognizance of it or receive a copy or duplicate of it except".

25. The said act is amended by adding, after section 96, the following section:

"96.1 A person authorized to take cognizance of a record under section 96 is bound to respect the confidential nature of the information thus obtained. He is also bound, if a copy or extract of a document filed in the Court record has been issued to him, to destroy that copy or extract as soon as it is of no further use to him."

26. The said act is amended by adding, after section 98, the following:

“ § 3.—*Special intervention*

“98.1 On the motion of the director, the Court may issue a warrant to bring a child before the director in cases where the director has the power to remove the child from the place where he is staying or in cases where the child, without authorization, leaves a reception centre, foster home or hospital centre where he was staying following a compulsory foster care order.

The warrant may be executed by any peace officer.”

27. Section 132 of the said act is amended by replacing subparagraph *c* of the first paragraph by the following subparagraph:

“(c) to determine the reception centres which are security units or include security units;”.

28. This act will come into force on the date to be fixed by proclamation of the Government, except the provisions excluded by the proclamation, which will come into force, in whole or in part, on any later date that may be fixed by proclamation of the Government.