

NATIONAL ASSEMBLY

SECOND SESSION

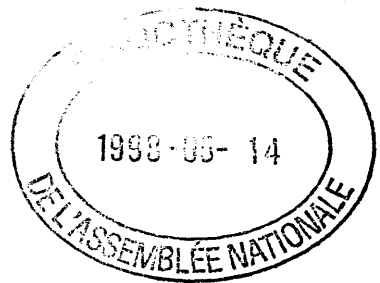
THIRTY-FIFTH LEGISLATURE

Bill 432

An Act to amend article 21 of the Civil Code and other legislative provisions

Introduction

**Introduced by
Mr Serge Ménard
Minister of Justice**



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EXPLANATORY NOTES

This bill amends article 21 of the Civil Code to authorize more persons to give consent, on behalf of a person who has become suddenly incapable of giving consent, to an experiment which does not permit the designation of a legal representative given the short time within which the experiment must be undertaken.

As well, the bill transfers the authority to approve experimentation on minors or persons of full age who are incapable of giving consent which is presently held by the courts or the Minister of Health and Social Services to ethics committees designated or formed by the Minister.

LEGISLATION AMENDED BY THIS BILL :

- Civil Code of Québec ;
- Code of Civil Procedure (R.S.Q., chapter C-25).

Bill 432

AN ACT TO AMEND ARTICLE 21 OF THE CIVIL CODE AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Article 21 of the Civil Code of Québec (1991, chapter 64) is replaced by the following:

“21. A minor or a person of full age who is incapable of giving consent may not be submitted to an experiment if the experiment involves serious risk to his health or, where he understands the nature and consequences of the experiment, if he objects.

Moreover, a minor or a person of full age who is incapable of giving consent may be submitted to an experiment only if, where the person is the only subject of the experiment, it has the potential to produce benefit to the person's health or only if, in the case of an experiment on a group, it has the potential to produce results capable of conferring benefit to other persons in the same age category or having the same disease or handicap. Such an experiment must be part of a research project approved and monitored by an ethics committee. The competent ethics committees are formed by the Minister of Health and Social Services or designated by that Minister among existing research ethics committees; the composition and operating conditions of the committees are determined by the Minister.

Consent to experimentation may be given, in the case of a minor, by the person having parental authority or the tutor and, in the case of a person of full age incapable of giving consent, by the mandatary, tutor or curator. To allow a person of full age having suddenly become incapable of consent to be submitted to an experiment which, insofar as it must be undertaken promptly after the appearance of the condition justifying it, does not permit, for lack of time, the designation of a legal representative, consent may be given by the person authorized to consent, in the absence of a legal representative, to any care the person requires; it is incumbent upon the competent ethics committee to determine, when examining the research project, whether the experiment meets that condition.

Procedures considered by the ethics committee to be innovative care required by the state of health of the person concerned do not constitute experiments.”

- 2.** Article 23 of the said Code is amended by replacing “with respect to care, the alienation of a part of the body, or an experiment” in the first paragraph by “with respect to care or the alienation of a body part”.
- 3.** Article 776 of the Code of Civil Procedure (R.S.Q., chapter C-25) is amended by replacing “with respect to care, the alienation of a part of the body or an experiment” in the first paragraph by “with respect to care or the alienation of a body part”.
- 4.** Article 777 of the said Code is amended by replacing “treatment, specimen taking, removal of tissue or experiment” in the first paragraph by “treatment, specimen taking or removal of tissue”.
- 5.** This Act comes into force on (*insert here the date of assent to this Act*).