



NATIONAL ASSEMBLY

FIRST SESSION

FORTY-FIRST LEGISLATURE

Bill 59

**An Act to enact the Act to prevent and
combat hate speech and speech inciting
violence and to amend various legislative
provisions to better protect individuals**

Introduction

Introduced by
Madam Stéphanie Vallée
Minister of Justice

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EXPLANATORY NOTES

The first purpose of this bill is to enact the Act to prevent and combat hate speech and speech inciting violence.

The Act provides for the prohibition of hate speech and speech inciting violence that are engaged in or disseminated publicly and that target a group of people sharing a common characteristic identified as prohibited grounds for discrimination under section 10 of the Charter of human rights and freedoms. Acting in such a manner as to cause such types of speech to be engaged in or disseminated is also prohibited. The Act introduces a procedure for reporting such speech to the Commission des droits de la personne et des droits de la jeunesse which includes measures for protecting people who report it, and grants the Commission new powers, including powers of investigation. The Commission is allowed to apply for a court order requiring such speech to cease. New responsibilities are therefore assigned to the Human Rights Tribunal, including the responsibility for determining whether a person has engaged in or disseminated such speech or acted in such a manner as to cause such acts to be committed and, if applicable, to determine the amount of the monetary penalties applicable. If the Tribunal concludes that a person has contravened those prohibitions, the person's name is entered, for the time determined by the Tribunal, on a list kept by the Commission and available on the Internet. In addition, the Charter of human rights and freedoms is amended to introduce the prohibition against engaging in or disseminating such speech targeting an individual, thus rendering the reporting procedure under the Charter applicable.

The second purpose of the bill is to introduce miscellaneous measures to better protect individuals.

In that regard, the bill amends a number of rules set out in the Civil Code of Québec regarding the solemnization of marriages and civil unions, in particular, by replacing the procedure for publishing a notice of solemnization. Under the bill, notices must be published on the website of the registrar of civil status, the registrar is allowed, except where provided otherwise, to grant a publication exemption, and the court is empowered to authorize the solemnization of a marriage if one of the intended spouses is a minor.

The bill also authorizes the courts of justice to order measures for protecting individuals whose life, health or safety is endangered by another person by introducing a new type of injunction, called a protection order, in civil procedure matters.

In the fields of pre-school, primary, secondary and college-level education, the Minister is granted new powers to inquire into any behaviour that could reasonably pose a threat for the physical or emotional safety of the students. The bill introduces, among other things, a presumption under which such behaviour is considered to exist in cases involving a person whose name is on the list kept by the Commission des droits de la personne et des droits de la jeunesse under the Act to prevent and combat hate speech and speech inciting violence. Tolerance of such behaviour allows the Minister to withhold or cancel all or part of a subsidy intended for a private educational institution, a school board or a general and vocational college. Furthermore, such tolerance constitutes grounds for modifying or revoking the permit of a private educational institution.

Lastly, the bill amends the Youth Protection Act to make it clearer that excessive control can constitute psychological ill-treatment. It further defines the role of the director of youth protection regarding the child and the child's parents, who require assistance, but whose situation does not otherwise warrant the application of the Act. It also provides additional protection, if the situation requires it, for the confidentiality of some information regarding children.

LEGISLATION AMENDED BY THIS BILL:

- Civil Code of Québec;
- Charter of human rights and freedoms (chapter C-12);
- Code of Civil Procedure (chapter C-25);
- Code of Civil Procedure (chapter C-25.01);
- General and Vocational Colleges Act (chapter C-29);
- Act respecting private education (chapter E-9.1);
- Education Act (chapter I-13.3);
- Youth Protection Act (chapter P-34.1).

LEGISLATION ENACTED BY THIS BILL:

- Act to prevent and combat hate speech and speech inciting violence (*insert the year and chapter number of this Act and the number of the section of this Act that enacts the Act to prevent and combat hate speech and speech inciting violence*).

LEGISLATION AMENDED BY THE LEGISLATION ENACTED BY THIS BILL:

- Charter of human rights and freedoms (chapter C-12).

Bill 59

AN ACT TO ENACT THE ACT TO PREVENT AND COMBAT HATE SPEECH AND SPEECH INCITING VIOLENCE AND TO AMEND VARIOUS LEGISLATIVE PROVISIONS TO BETTER PROTECT INDIVIDUALS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

PART I

ACT TO PREVENT AND COMBAT HATE SPEECH AND SPEECH INCITING VIOLENCE

I. The Act to prevent and combat hate speech and speech inciting violence, the text of which is contained in this Part, is enacted.

“ACT TO PREVENT AND COMBAT HATE SPEECH AND SPEECH INCITING VIOLENCE

“AS the Charter of human rights and freedoms (chapter C-12) establishes that every human being possesses intrinsic rights and freedoms designed to ensure his or her protection and development;

“AS the Charter provides that all human beings are equal in worth and dignity, and are entitled to equal protection of the law;

“AS it provides that respect for the dignity of human beings, equality of women and men, and recognition of their rights and freedoms constitute the foundation of justice, liberty and peace;

“AS it also provides that the rights and freedoms of the human person are inseparable from the rights and freedoms of others and from the common well-being;

“AS, under section 3 of the Charter, every person is the possessor of the fundamental freedoms, including freedom of opinion and freedom of expression;

“AS, under section 9.1 of the Charter, in exercising his or her fundamental freedoms and rights, a person must maintain a proper regard for democratic values, public order and the general well-being of the citizens of Québec and, in this respect, the scope of the freedoms and rights may be fixed by law;

“AS section 10 of the Charter establishes that every person has a right to full and equal recognition and exercise of his or her human rights and freedoms and prohibits all discrimination, that is, any distinction, exclusion or preference based on race, colour, sex, pregnancy, sexual orientation, civil status, age except as provided by law, religion, political convictions, language, ethnic or national origin, social condition, a handicap or the use of any means to palliate a handicap;

“AS, under section 50.1 of the Charter, the rights and freedoms set forth in the Charter are guaranteed equally to women and men;

“THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

“CHAPTER I

“OBJECT

“**1.** The purpose of this Act is to establish measures for preventing and combatting hate speech and speech inciting violence.

The Act applies to hate speech and speech inciting violence that are engaged in or disseminated publicly and that target a group of people sharing a characteristic identified as prohibited grounds for discrimination under section 10 of the Charter of human rights and freedoms (chapter C-12).

“CHAPTER II

“PROHIBITIONS

“**2.** Engaging in or disseminating the types of speech described in section 1 is prohibited.

Acting in such a manner as to cause such types of speech to be engaged in or disseminated is also prohibited.

However, the purpose of these prohibitions is not to limit the dissemination of such speech intended to legitimately inform the public.

“CHAPTER III

“REPORTING AND ROLE OF THE COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE

“DIVISION I

“REPORTING AND INVESTIGATION

“**3.** Any person who is aware of hate speech or speech inciting violence being engaged in or disseminated can report it to the Commission des droits

de la personne et des droits de la jeunesse by providing any information the person considers useful as proof. The person can also report any situation that could contravene the prohibitions in section 2, in particular if the person has knowledge that such speech is about to be engaged in or disseminated or if the person has been asked to engage in or disseminate such speech.

“4. On receiving a report of hate speech or speech inciting violence, the Commission analyzes it to determine the appropriate action to take.

“5. The Commission may refuse to follow up on a report that is received more than two years after the last relevant act reported, or if the Commission considers the report frivolous, vexatious or in bad faith.

The Commission informs the person who filed the report of its refusal.

“6. If the Commission considers the report to be admissible, it conducts an investigation.

The Commission may also initiate investigations.

For the purposes of an investigation, the Commission has the powers and immunity of a commissioner appointed under the Act respecting public inquiry commissions (chapter C-37), except the power to order imprisonment.

“7. The Commission must take all necessary measures to ensure that persons who report hate speech or speech inciting violence remain anonymous. It may however communicate their identity with their consent or if the situation requires that a police force be informed of the facts reported.

“8. The Commission has the interest required to apply to a court for an order requiring that the hate speech or the speech inciting violence under investigation cease to be engaged in or disseminated.

“9. If the Commission has reason to believe that there is a threat to the life, health or safety of a person belonging to a group targeted by the speech being investigated, or if there is a risk of evidence being lost, the Commission may apply to a court for any emergency measure that can put an end to the threat or risk of loss.

Before applying to the court for such a measure on a person’s behalf under the first paragraph, the Commission must obtain the person’s written consent.

“10. The Commission may terminate its investigation if it believes that seeking further evidence would be futile or if the evidence collected is insufficient.

“11. The Commission must submit an application to the Human Rights Tribunal when it considers that there is sufficient evidence to determine whether a person has engaged in or disseminated hate speech or speech inciting violence

or whether a person has acted in such a manner as to cause such speech to be engaged in or disseminated.

“12. Reprisals are prohibited against a person who files a report or who cooperates with an investigation of the Commission, as are threats of reprisal against a person to dissuade the person from filing a report or cooperating with an investigation.

Interfering or attempting to interfere with the Commission, a reports committee, a Commission member or mandatary or Commission personnel in the performance of their duties is also prohibited.

Anyone who contravenes this section is guilty of an offence and is liable to a fine of

- (1) \$2,000 to \$20,000 in the case of a natural person; and
- (2) \$10,000 to \$250,000 in all other cases.

For subsequent offences, the amounts are doubled.

“13. Anyone, including a director or an officer of a legal person, who, by an act or omission, helps someone commit an offence under section 12 or who, by incitement, advice, consent, authorization or order, causes someone else to commit such an offence is guilty of the same offence.

“14. The Commission has the interest required to apply to a court for an order requiring that measures be taken against anyone who carries out, threatens or attempts to carry out reprisals.

“15. The Commission may institute penal proceedings for an offence under section 12.

If the Commission institutes penal proceedings, the costs the defendant sends it with the plea belong to the Commission.

“16. The Commission may delegate its powers under this division, except its power under section 15, to a reports committee composed of two Commission members whom it designates in writing.

“DIVISION II

“OTHER DUTIES AND OBLIGATIONS OF THE COMMISSION

“17. For the purposes of this Act, the Commission also

- (1) plays a preventive and educational role in combatting hate speech and speech inciting violence;

(2) makes recommendations to the Government on any measure for preventing and combatting hate speech and speech inciting violence; and

(3) maintains an up-to-date list of persons who have been the subject of a decision concluding that they contravened a prohibition under section 2 and makes the list available on its website.

“18. For the purposes of this Act, the report produced by the Commission under section 73 of the Charter of human rights and freedoms must include

(1) the number of reports received;

(2) the number of investigations conducted;

(3) the number of applications under sections 8 and 9;

(4) the number of files submitted to the Human Rights Tribunal;

(5) the preventive and educational activities it has carried out regarding hate speech and speech inciting violence; and

(6) a summary of the recommendations made to the Government on any measure for preventing and combatting hate speech and speech inciting violence.

“CHAPTER IV

“POWERS OF HUMAN RIGHTS TRIBUNAL AND CIVIL SANCTIONS

“19. For the purposes of this Act, the Human Rights Tribunal performs the duties and exercises the powers conferred on it by the Charter of human rights and freedoms, with the necessary modifications.

In addition, the Tribunal may, at any time and at the Commission’s request, order a person to stop engaging in or disseminating hate speech or speech inciting violence or to stop acting in such a manner as to cause such speech to be engaged in or disseminated.

“20. If the Tribunal concludes that a person has engaged in or disseminated hate speech or speech inciting violence or has acted in a manner so as to cause such acts to be committed, it sets the amount of the monetary penalty the person must pay, which amount may not be less than \$1,000 nor more than \$10,000. If the Tribunal has previously concluded, in another situation, that the person contravened a prohibition under section 2, the amounts are doubled.

The sums paid under the first paragraph are paid into the Access to Justice Fund.

“21. The Tribunal determines how long a person’s name is to remain on the list kept by the Commission under paragraph 3 of section 17.

“CHAPTER V

“AMENDING AND FINAL PROVISIONS

“22. The Charter of human rights and freedoms (chapter C-12) is amended by inserting the following section after section 11:

“11.1. No one may publicly engage in or disseminate hate speech or speech inciting violence targeting a person on the basis of any of the grounds mentioned in section 10.

The purpose of this prohibition is not to limit the dissemination of speech intended to legitimately inform the public.”

“23. Section 57 of the Charter is amended by replacing the third paragraph by the following paragraph:

“Moreover, the commission is responsible for the administration of the Act respecting equal access to employment in public bodies (chapter A-2.01) and the Act to prevent and combat hate speech and speech inciting violence (*insert the year and chapter number of this Act and the number of the section of this Act that enacts the Act to prevent and combat hate speech and speech inciting violence*). For such purposes, the commission shall exercise the functions and powers conferred on it by those Acts and this Charter.”

“24. The Charter is amended by inserting the following section after section 111:

“11.0.1. The Tribunal is competent to hear and dispose of any application made under the Act to prevent and combat hate speech and speech inciting violence (*insert the year and chapter number of this Act and the number of the section of this Act that enacts the Act to prevent and combat hate speech and speech inciting violence*) to determine whether a person has contravened section 2 under the Act.

Only the commission may submit such applications to the Tribunal.”

“25. The Minister of Justice is responsible for the administration of this Act.”

PART II

AMENDMENTS TO BETTER PROTECT INDIVIDUALS

CIVIL CODE OF QUÉBEC

2. Article 64 of the Civil Code of Québec is amended by replacing “and to the publication of the application and decision” by “and to the publication of the application”.

3. Article 67 of the Code is amended by replacing “Notice of the change is published in the *Gazette officielle du Québec*” in the second paragraph by “Notice of the decision of the registrar of civil status or of the judicial decision rendered after the review is published in accordance with the rules determined by government regulation.”.

4. Article 120 of the Code is amended by replacing “the authorizations or consents obtained” by “the fact that the court has authorized the solemnization of the marriage”.

5. Article 366 of the Code is amended by replacing “or” after “in places which conform to those rites” in the second paragraph by “and”.

6. Article 368 of the Code is amended

(1) by replacing the first sentence of the first paragraph by the following sentence: “Publication shall be effected by means of a notice posted, for 20 days before the date fixed for the marriage, on the website of the registrar of civil status.”;

(2) by inserting “by the officiant” after “informed” in the second paragraph.

7. Article 369 of the Code is amended by adding the following paragraph at the end:

“The other rules regarding the publication are established by the Minister of Justice.”

8. Article 370 of the Code is replaced by the following article:

“370. The registrar of civil status may, for a serious reason, grant a dispensation from publication on an application by the intended spouses and the officiant.

However, if the life of one of the intended spouses is endangered and the marriage must be solemnized promptly before it is possible to obtain a dispensation from the registrar, the officiant may grant the dispensation.”

9. Article 372 of the Code is amended

- (1) by striking out “interested” in the first paragraph;
- (2) by adding “, in particular if, in the person’s opinion, the consent of one of the intended spouses will likely not be free or enlightened” at the end of the first paragraph.

10. Article 373 of the Code is amended

(1) by replacing “that the person having parental authority or, if applicable, the tutor has consented to the marriage” by “that the court has authorized the solemnization of the marriage”;

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

“The minor may apply alone for the court’s authorization. The person having parental authority or, if applicable, the tutor must be summoned to give his or her advice.”

11. The Code is amended by inserting the following article after article 376:

376.1. The rules governing the solemnization of marriage prescribed by the Minister of Justice apply, to the extent determined by the Minister, to the persons authorized by the Minister to solemnize marriages.”

12. Article 380 of the Code is amended by adding “, in particular if the consent of one of the spouses was not free or enlightened” at the end of the second paragraph.

13. Article 3088 of the Code is amended by replacing “or by the law of the State of domicile or of nationality of one of the spouses.” at the end of the second paragraph by “. However, if one of the spouses is domiciled in Québec and is a minor when the marriage is solemnized, the marriage must be authorized by the court.”

CODE OF CIVIL PROCEDURE (CHAPTER C-25)

14. Article 46 of the Code of Civil Procedure (chapter C-25) is amended by inserting “, protection orders” after “injunctions” in the second paragraph.

15. The Code is amended by replacing the heading of Chapter III of Title I of Book V by the following heading:

“INJUNCTIONS AND PROTECTION ORDERS”.

16. Article 751 of the Code is amended by adding the following paragraph at the end:

“Such an injunction may enjoin a natural person not to do or to cease doing something or to perform a particular act in order to protect another natural

person whose life, health or safety is endangered. Such an injunction, called a protection order, may be obtained, in particular, in a context of violence, such as violence based on a concept of honour, or a context of hate speech or speech inciting violence. A protection order may only be issued for such time and on such conditions as determined by the court, without however exceeding three years.”

17. The Code is amended by inserting the following article after the heading of Section I of Chapter II of Title IV of Book V:

“817.5. The minor who applies to the court for authorization of the solemnization of his marriage must, not later than five days before the presentation of the motion, serve his application on the person having parental authority or, if such is the case, on his tutor.”

18. Article 819 of the Code is amended

(1) by inserting “to on the registrar of civil status and” after “on the officiant;”;

(2) by striking out “and, if such is the case, on the persons who must consent to the solemnization of the marriage” at the end.

CODE OF CIVIL PROCEDURE (CHAPTER C-25.01)

19. Article 49 of the Code of Civil Procedure (chapter C-25.01) is amended by inserting “protection orders or” after “or issue” in the second paragraph.

20. Article 58 of the Code is amended by inserting “or protection order” after both occurrences of “injunction” in the second paragraph.

21. Article 458 of the Code is amended

(1) by inserting “to the registrar of civil status and” after “the officiant,” in the first paragraph;

(2) by striking out “and, in the case of a marriage, to any person who must consent to its solemnization” at the end of the first paragraph.

22. The Code is amended by replacing the heading of Chapter I of Title I of Book VI by the following heading:

“INJUNCTIONS AND PROTECTION ORDERS”.

23. Article 509 of the Code is amended by inserting the following paragraph after the first paragraph:

“Such an injunction may enjoin a natural person not to do or to cease doing something or to perform a particular act in order to protect another natural

person whose life, health or safety is endangered. Such an injunction, called a protection order, may be obtained, in particular, in a context of violence, for example, violence based on a concept of honour, or a context of hate speech or speech inciting violence. A protection order may only be issued for such time and on such conditions as determined by the court, without however exceeding three years.”

GENERAL AND VOCATIONAL COLLEGES ACT

24. Section 29 of the General and Vocational Colleges Act (chapter C-29) is amended

(1) by inserting the following paragraphs after the first paragraph:

“The Minister may also designate a person to inquire into any behaviour that could reasonably pose a threat for the physical or emotional safety of the students.

A person whose name is on the list kept by the Commission des droits de la personne et des droits de la jeunesse under the Act to prevent and combat hate speech and speech inciting violence (*insert the year and chapter number of this Act and the number of the section of this Act that enacts the Act to prevent and combat hate speech and speech inciting violence*) is considered to exhibit behaviour that could reasonably pose a threat for the physical or emotional safety of the students.”;

(2) by replacing “so designated” in the second paragraph by “designated by the Minister”.

25. Section 29.2 of the Act is amended by inserting the following paragraph after paragraph *a*:

“(a.1) where the college tolerates behaviour that could reasonably pose a threat for the physical or emotional safety of the students;”.

26. Section 29.8 of the Act is amended by adding the following sentence at the end: “The same rule applies if the college tolerates behaviour that could reasonably pose a threat for the physical or emotional safety of the students.”

ACT RESPECTING PRIVATE EDUCATION

27. Section 118 of the Act respecting private education (chapter E-9.1) is amended by inserting the following paragraphs after the first paragraph:

“The Minister may also designate a person to inquire into any behaviour that could reasonably pose a threat for the physical or emotional safety of the students.

A person whose name is on the list kept by the Commission des droits de la personne et des droits de la jeunesse under the Act to prevent and combat hate speech and speech inciting violence (*insert the year and chapter number of this Act and the number of the section of this Act that enacts the Act to prevent and combat hate speech and speech inciting violence*) is considered to exhibit behaviour that could reasonably pose a threat for the physical or emotional safety of the students.”

28. Section 119 of the Act is amended by adding the following paragraph at the end:

“(8) tolerates, within his institution, behaviour that could reasonably pose a threat for the physical or emotional safety of the students.”

29. The Act is amended by inserting the following section after section 120:

“120.1. The Minister must, before modifying or revoking the permit of a holder for the reason mentioned in paragraph 8 of section 119, order the holder to apply the corrective measures he indicates within the time limit he fixes.

If the holder does not comply with the order, the Minister may modify or revoke his permit.”

30. Section 125 of the Act is amended by adding the following sentence at the end: “The same rule applies if the permit holder tolerates behaviour that could reasonably pose a threat for the physical or emotional safety of the students.”

EDUCATION ACT

31. Section 477 of the Education Act (chapter I-13.3) is amended by adding the following sentence at the end of the first paragraph: “The same rule applies if a school board tolerates behaviour that could reasonably pose a threat for the physical or emotional safety of the students.”

32. Section 478.3 of the Act is amended

(1) by inserting the following paragraphs after the first paragraph:

“The Minister may also designate a person to inquire into any behaviour that could reasonably pose a threat for the physical or emotional safety of the students.

A person whose name is on the list kept by the Commission des droits de la personne et des droits de la jeunesse under the Act to prevent and combat hate speech and speech inciting violence (*insert the year and chapter number of this Act and the number of the section of this Act that enacts the Act to prevent and combat hate speech and speech inciting violence*) is considered to exhibit

behaviour that could reasonably pose a threat for the physical or emotional safety of the students.”;

(2) by replacing “so designated” in the second paragraph by “designated by the Minister”.

YOUTH PROTECTION ACT

33. Section 38 of the Youth Protection Act (chapter P-34.1) is amended

(1) by inserting “excessive control,” after “emotional rejection,” in subparagraph *c* of the second paragraph;

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

“No justification, whether for ideological or other reasons, including reasons based on the concept of honour, can be made for a situation referred to in the first paragraph.”

34. Section 45.1 of the Act is amended by striking out the second paragraph.

35. The Act is amended by inserting the following section after section 45.1:

“45.2. If the director decides not to accept a report but is of the opinion that the child or one or both of the child’s parents require assistance, the director must inform them of the services and resources available in their area. If they consent to it, the director must, in a personalized manner, advise and direct them to the institutions, bodies or persons best suited to assist them and come to an agreement with the service provider on the terms of access to such service, in particular, on the time limit. In addition, if they consent to it, the director must forward the information relevant to the situation to the service provider.

Information on the services and resources available to them is given to the person requiring assistance and, in the case of a child under 14 years of age, to one or both of the child’s parents. The required consents are also given by the person requiring assistance, except those for a child under 14 years of age, which are given by one of the child’s parents.

Where the child requiring assistance is 14 years of age or older, the director may, if the child consents to it, inform one or both of the child’s parents of the services and resources available in their area. In addition, where the child is directed, the director may, if the child consents to it, inform one or both of the parents. Where the director directs the child without informing the parents, the director must meet with the child and the service provider.”

36. Section 46 of the Act is amended by inserting the following subparagraph after subparagraph *e* of the fourth paragraph:

“(e.1) prohibiting the disclosure of specific information to one or both of the parents or any other person designated by the director;”.

37. Section 50 of the Act is amended by striking out the second paragraph.

38. The Act is amended by inserting the following section after section 50:

“50.1. Where the director establishes that the security or development of the child is not in danger, but the director is of the opinion that the child or one or both of the child’s parents require assistance, the director is subject to the obligations set out in section 45.2.”

39. Section 57.2 of the Act is amended by striking out the second and third paragraphs.

40. The Act is amended by inserting the following section after section 57.2:

“57.2.1. If the director puts an end to an intervention, but is of the opinion that the child or one or both of the child’s parents require assistance, the director is subject to the obligations set out in section 45.2.

The director is also subject to those obligations when a child whose security or development is in danger reaches 18 years of age.”

41. Section 70.2 of the Act is amended by replacing “set out in the second paragraph of section 57.2” in the second paragraph by “set out in section 45.2”.

42. Section 91 of the Act is amended by inserting the following subparagraph after subparagraph *l* of the first paragraph:

“(i.1) that specific information not be disclosed to one or both of the parents or any other person designated by the tribunal;”.

PART III

FINAL PROVISION

43. The provisions of this Act come into force on the date or dates to be set by the Government.

