



NATIONAL ASSEMBLY

FIRST SESSION

FORTY-FIRST LEGISLATURE

Bill 115

**An Act to combat maltreatment of
seniors and other persons of full age in
vulnerable situations**

Introduction

**Introduced by
Madam Francine Charbonneau
Minister responsible for Seniors and Anti-Bullying**

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EXPLANATORY NOTES

The purpose of this bill is to combat maltreatment of seniors and other persons of full age in vulnerable situations by enacting measures to facilitate the reporting of maltreatment and to promote the establishment of an intervention process with respect to maltreatment of seniors.

Institutions within the meaning of the Act respecting health services and social services are required to adopt and implement a policy to combat maltreatment of persons in vulnerable situations who receive health services and social services, whether the services are provided in a facility maintained by the institution or are in-home services, and whether maltreatment occurs at the hands of a person working for the institution or of any other person. An institution's policy also applies, with the adaptations provided for, to all intermediate and family-type resources that take in users of full age and private seniors' residences attached to that institution. The Government may also require any other body or resource it designates to adopt such a policy.

The local service quality and complaints commissioner is responsible for dealing with complaints and reports made within the scope of the policy to combat maltreatment of persons in vulnerable situations. Measures are also to be put in place to preserve the confidentiality of information relating to the identity of persons who report maltreatment, to protect them against reprisals and to grant them immunity from proceedings after making such a report in good faith.

The Minister responsible for Seniors, in concert with the actors from the sectors concerned, is responsible for combatting maltreatment of seniors, in particular by ensuring the complementarity and effectiveness of actions undertaken to prevent, identify and combat such maltreatment.

The bill defines in several Acts, including those concerning professional orders and those relating to the protection of personal information, the nature of the threat and the notion of "serious bodily injury" in the provisions that authorize the communication of personal information, without the consent of the person concerned, to prevent an act of violence.

Lastly, the Government may determine, by regulation, the terms governing the use of monitoring mechanisms, such as cameras or any other technological means, on premises governed by the Act respecting health services and social services.

LEGISLATION AMENDED BY THIS BILL:

- Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1);
- Tax Administration Act (chapter A-6.002);
- Act respecting the Barreau du Québec (chapter B-1);
- Professional Code (chapter C-26);
- Act respecting labour standards (chapter N-1.1);
- Notaries Act (chapter N-3);
- Act respecting the sharing of certain health information (chapter P-9.0001);
- Youth Protection Act (chapter P-34.1);
- Act respecting the protection of personal information in the private sector (chapter P-39.1);
- Act respecting health services and social services (chapter S-4.2);
- Act respecting health services and social services for Cree Native persons (chapter S-5).

Bill 115

AN ACT TO COMBAT MALTREATMENT OF SENIORS AND OTHER PERSONS OF FULL AGE IN VULNERABLE SITUATIONS

AS Québec society places value on the well-being of persons and respect for their fundamental rights;

AS, despite existing legislative and administrative measures to combat maltreatment, persons are still falling victim to it, particularly persons in vulnerable situations;

AS Québec has one of the world's populations most impacted by aging and certain seniors are in vulnerable situations;

AS maltreatment is unacceptable and the State deems it essential to intervene in order to reinforce existing measures to combat maltreatment of persons in vulnerable situations, in a manner that protects their interests and autonomy;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

OBJECTS AND DEFINITIONS

1. This Act provides measures to combat maltreatment of persons in vulnerable situations, such as requiring every institution to adopt and implement a policy to combat maltreatment of such persons, facilitating the reporting of cases of maltreatment and promoting the establishment of an intervention process with respect to maltreatment of seniors.

2. For the purposes of this Act,

(1) “institution” means an institution within the meaning of the Act respecting health services and social services (chapter S-4.2);

(2) “maltreatment” means a single or repeated act, or a lack of appropriate action, that occurs in a relationship where there is an expectation of trust, and that causes harm or distress to a person;

(3) “person in a vulnerable situation” means a person of full age whose ability to request or obtain assistance is temporarily or permanently limited because of factors such as a physical, cognitive or psychological limitation, illness, injury or handicap; and

(4) “person working for the institution” means a physician, dentist, midwife, personnel member, medical resident, trainee, volunteer or other natural person who provides services directly to a person on behalf of the institution.

CHAPTER II

ANTI-MALTREATMENT POLICY

DIVISION I

POLICY ADOPTION AND IMPLEMENTATION

3. Every institution must adopt a policy to combat maltreatment of persons in vulnerable situations who receive health services and social services, whether services provided in a facility maintained by the institution or in-home services.

The purpose of the policy is, in particular, to establish measures to prevent and combat maltreatment of such persons, whether at the hands of a person working for the institution or of any other person, and to support them in any steps taken to end it.

The president and executive director or the executive director of the institution, as applicable, or the person designated by the president and executive director or the executive director, is responsible for implementing the policy.

The policy must include

(1) the person responsible for implementing the policy and their contact information;

(2) the measures put in place to prevent maltreatment of persons in vulnerable situations who receive health services and social services, such as awareness, information and training activities;

(3) the procedure allowing such persons who believe they are victims of maltreatment to file a complaint with the local service quality and complaints commissioner appointed under section 30 of the Act respecting health services and social services;

(4) the procedure allowing any other person, including a person who does not work for the institution, to report to the local service quality and complaints commissioner any alleged case of maltreatment of a person in a vulnerable situation who receives health services and social services;

(5) the support measures available to help a person file a complaint or report of maltreatment;

(6) the measures put in place by the local service quality and complaints commissioner to preserve the confidentiality of any information that would allow the person reporting a case of maltreatment to be identified;

(7) the sanctions, in particular disciplinary sanctions, that could be applied in cases of maltreatment; and

(8) the required follow-up in response to any complaint or report of maltreatment.

4. The policy must specify the adaptations required, if any, when it is implemented by an intermediate or family-type resource or private seniors' residence governed by the Act respecting health services and social services.

DIVISION II

DISSEMINATION OF THE POLICY

5. The institution must publicly display its policy in the facilities it maintains. It must also, by any other means it determines, inform the users who receive in-home services of its policy.

6. The person responsible for implementing the policy must inform the persons working for the institution of the policy's content and, more specifically, of the prevention measures put in place and the possibility of reporting cases of maltreatment to the local service quality and complaints commissioner.

DIVISION III

POLICY REVIEW

7. The institution must review its policy at least every five years.

DIVISION IV

IMPLEMENTATION OF POLICY BY INTERMEDIATE RESOURCES OR FAMILY-TYPE RESOURCES AND BY PRIVATE SENIORS' RESIDENCES

8. Any intermediate resource or family-type resource that receives users of full age must implement the anti-maltreatment policy of the institution that uses the resource's services.

It must inform its users and the persons working for the resource of the policy.

9. Any operator of a private seniors' residence governed by the Act respecting health services and social services must implement the anti-maltreatment policy

of the integrated health and social services centre or the local authority, as applicable, in the territory where the residence is situated.

The operator must inform the residents and the persons working for the residence of the policy.

DIVISION V

CONFIDENTIALITY, PROTECTION AGAINST REPRISAL AND IMMUNITY FROM PROCEEDINGS

10. The local service quality and complaints commissioner must take all necessary measures to preserve the confidentiality of any information that would allow a person who has reported maltreatment to be identified, unless the person consents to being identified. The commissioner may however communicate the identity of that person to the police force concerned.

11. Reprisals are prohibited against a person who, in good faith and within the scope of the policy provided for in this chapter, reports maltreatment or cooperates in the examination of a report or complaint of maltreatment, as are threats of reprisal against a person to dissuade them from reporting maltreatment or cooperating in the examination of a report or complaint within the scope of the policy provided for in this chapter.

The demotion, suspension, termination of employment or transfer of a person working for the institution or any disciplinary or other measure that adversely affects the employment or working conditions of such a person is presumed to be a reprisal. Transferring a user or resident or breaking their lease is also presumed to be a reprisal.

12. No proceedings may be brought against a person who, in good faith, has reported maltreatment or cooperated in the examination of a report, whatever the conclusions issued following its examination.

DIVISION VI

ADOPTION OF A POLICY BY OTHER BODIES OR RESOURCES

13. The Government may, by regulation, require any body, resource or category of bodies or resources it designates to adopt a policy to combat maltreatment of persons in vulnerable situations and, in such a case, specify the necessary adaptations.

DIVISION VII

REPORTING

14. The local service quality and complaints commissioner must, in the commissioner's report to the institution, include a section dealing specifically

with complaints and reports the commissioner has received concerning cases of maltreatment of persons in vulnerable situations, without disclosing the identity of any person who made a complaint or report of maltreatment.

15. The Minister of Health and Social Services reports annually on the application of this chapter in a report the Minister publishes on the website of the Minister's department.

CHAPTER III

MALTREATMENT OF SENIORS

16. The Minister responsible for Seniors, in concert with the actors from the sectors concerned, is responsible for combatting maltreatment of seniors, in particular by ensuring the complementarity and effectiveness of actions undertaken to prevent, identify and combat such maltreatment.

17. The Minister responsible for Seniors coordinates the establishment of an intervention process with respect to maltreatment of seniors, in particular through an agreement between the institution, the Director of Criminal and Penal Prosecutions, the municipal police forces, the Sûreté du Québec and any other person considered useful.

18. The Minister responsible for Seniors reports annually on the application of this chapter in a report the Minister publishes on the website of the Minister's department.

CHAPTER IV

AMENDING PROVISIONS

ACT RESPECTING ACCESS TO DOCUMENTS HELD BY PUBLIC BODIES AND THE PROTECTION OF PERSONAL INFORMATION

19. Section 59.1 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1) is amended

(1) by replacing “an imminent danger of death or serious bodily injury to a person or an identifiable group of persons” in the first paragraph by “a serious risk of death or serious bodily injury threatening a person or an identifiable group of persons and where the nature of the threat generates a sense of urgency”;

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

“For the purposes of the first paragraph, “serious bodily injury” means any physical or psychological injury that is significantly detrimental to the physical integrity or the health or well-being of a person or an identifiable group of persons.”

TAX ADMINISTRATION ACT

20. Section 69.0.0.11 of the Tax Administration Act (chapter A-6.002) is amended

(1) by replacing “imminent danger of death or serious bodily injury to a person or identifiable group of persons or where there is an emergency situation that threatens their lives, health or safety” in the first paragraph by “a serious risk of death or serious bodily injury threatening a person or an identifiable group of persons and where the nature of the threat generates a sense of urgency”;

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

“For the purposes of the first paragraph, “serious bodily injury” means any physical or psychological injury that is significantly detrimental to the physical integrity or the health or well-being of a person or an identifiable group of persons.”

ACT RESPECTING THE BARREAU DU QUÉBEC

21. Section 131 of the Act respecting the Barreau du Québec (chapter B-1) is amended

(1) by replacing “an imminent danger of death or serious bodily injury to a person or an identifiable group of persons” in subsection 3 by “a serious risk of death or serious bodily injury threatening a person or an identifiable group of persons and where the nature of the threat generates a sense of urgency”;

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

“(4) For the purposes of subsection 3, “serious bodily injury” means any physical or psychological injury that is significantly detrimental to the physical integrity or the health or well-being of a person or an identifiable group of persons.”

PROFESSIONAL CODE

22. Section 60.4 of the Professional Code (chapter C-26) is amended

(1) by replacing “an imminent danger of death or serious bodily injury to a person or an identifiable group of persons” in the third paragraph by “a serious risk of death or serious bodily injury threatening a person or an identifiable group of persons and where the nature of the threat generates a sense of urgency”;

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

“For the purposes of the third paragraph, “serious bodily injury” means any physical or psychological injury that is significantly detrimental to the physical integrity or the health or well-being of a person or an identifiable group of persons.”

ACT RESPECTING LABOUR STANDARDS

23. Section 3.1 of the Act respecting labour standards (chapter N-1.1) is amended by replacing “and 10” in the second paragraph by “, 10 and 11”.

24. Section 122 of the Act is amended by adding the following subparagraph at the end of the first paragraph:

“(11) on the ground of a report made by an employee to the local service quality and complaints commissioner or of the employee’s cooperation in the examination of a report or complaint of maltreatment under Division III of Chapter III of Title II of Part I of the Act respecting health services and social services (chapter S-4.2).”

NOTARIES ACT

25. Section 14.1 of the Notaries Act (chapter N-3) is amended

(1) by replacing “an imminent danger of death or serious bodily injury to a person or an identifiable group of persons” in the third paragraph by “a serious risk of death or serious bodily injury threatening a person or an identifiable group of persons and where the nature of the threat generates a sense of urgency”;

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

“For the purposes of the third paragraph, “serious bodily injury” means any physical or psychological injury that is significantly detrimental to the physical integrity or the health or well-being of a person or an identifiable group of persons.”

ACT RESPECTING THE SHARING OF CERTAIN HEALTH INFORMATION

26. Section 102 of the Act respecting the sharing of certain health information (chapter P-9.0001) is amended

(1) by replacing “an imminent danger of death or serious bodily injury to a person or an identifiable group of persons” in the first paragraph by “a serious risk of death or serious bodily injury threatening a person or an identifiable group of persons and where the nature of the threat generates a sense of urgency”;

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

“For the purposes of the first paragraph, “serious bodily injury” means any physical or psychological injury that is significantly detrimental to the physical integrity or the health or well-being of a person or an identifiable group of persons.”

YOUTH PROTECTION ACT

27. Section 72.8 of the Youth Protection Act (chapter P-34.1) is amended

(1) by replacing “an imminent danger of death or serious bodily injury to a person or an identifiable group of persons” in the first paragraph by “a serious risk of death or serious bodily injury threatening a person or an identifiable group of persons and where the nature of the threat generates a sense of urgency”;

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

“For the purposes of the first paragraph, “serious bodily injury” means any physical or psychological injury that is significantly detrimental to the physical integrity or the health or well-being of a person or an identifiable group of persons.”

ACT RESPECTING THE PROTECTION OF PERSONAL INFORMATION IN THE PRIVATE SECTOR

28. Section 18.1 of the Act respecting the protection of personal information in the private sector (chapter P-39.1) is amended

(1) by replacing “an imminent danger of death or serious bodily injury to a person or an identifiable group of persons” in the first paragraph by “a serious risk of death or serious bodily injury threatening a person or an identifiable group of persons and where the nature of the threat generates a sense of urgency”;

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

“For the purposes of the first paragraph, “serious bodily injury” means any physical or psychological injury that is significantly detrimental to the physical integrity or the health or well-being of a person or an identifiable group of persons.”

ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES

29. Section 19.0.1 of the Act respecting health services and social services (chapter S-4.2) is amended

(1) by replacing “an imminent danger of death or serious bodily injury to the user, another person or an identifiable group of persons” in the first paragraph by “a serious risk of death or serious bodily injury threatening the

user, another person or an identifiable group of persons and where the nature of the threat generates a sense of urgency”;

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

“For the purposes of the first paragraph, “serious bodily injury” means any physical or psychological injury that is significantly detrimental to the physical integrity or the health or well-being of a person or an identifiable group of persons.”

30. Section 33 of the Act is amended by adding the following paragraph at the end:

“The local service quality and complaints commissioner is also answerable for the handling of reports of maltreatment made within the scope of the anti-maltreatment policy adopted under the Act to combat maltreatment of seniors and other persons of full age in vulnerable situations (*insert the year and chapter number of that Act*) and, if applicable, for directing the persons making such a report to another appropriate authority.”

31. Section 505 of the Act is amended by adding the following at the end:

“(30) determine the terms governing the use of monitoring mechanisms, such as cameras or any other technological means, in the facilities maintained by an institution and in intermediate resources, family-type resources, private seniors’ residences or any other premises it determines, in connection with the provision of health services and social services.

A regulation under paragraph 30 that enacts measures mainly applicable to seniors is made on the joint recommendation of the Minister of Health and Social Services and the Minister responsible for Seniors.”

ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES FOR CREE NATIVE PERSONS

32. Section 7 of the Act respecting health services and social services for Cree Native persons (chapter S-5) is amended

(1) by replacing “an imminent danger of death or serious bodily injury to the beneficiary, another person or an identifiable group of persons” in the second paragraph by “a serious risk of death or serious bodily injury threatening the beneficiary, another person or an identifiable group of persons and where the nature of the threat generates a sense of urgency”;

(2) by adding the following paragraph after the second paragraph:

“For the purposes of the second paragraph, “serious bodily injury” means any physical or psychological injury that is significantly detrimental to the physical integrity or the health or well-being of a person or an identifiable group of persons.”

CHAPTER V

MISCELLANEOUS, TRANSITIONAL AND FINAL PROVISIONS

33. Every institution must adopt its anti-maltreatment policy, described in section 3, not later than *(insert the date that is 18 months after the date of assent to this Act)*.

34. The Minister responsible for Seniors is responsible for the administration of this Act, except Chapter II and section 33, which are under the responsibility of the Minister of Health and Social Services.

35. This Act comes into force on *(insert the date of assent to this Act)*.

