



NATIONAL ASSEMBLY

FIRST SESSION

FORTY-FIRST LEGISLATURE

Bill 143

**An Act to improve the educational
quality and foster the harmonious
development of educational childcare
services**

Introduction

**Introduced by
Mr. Sébastien Proulx
Minister of Families**

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EXPLANATORY NOTES

This bill amends the Educational Childcare Act to introduce new provisions respecting mainly the quality of educational childcare service delivery, and the safety and development of these services.

The bill adds promoting educational success to the objects of the Act and adds the obligation to foster educational success, in particular to facilitate children's transition into the school system, to the educational program applied by childcare providers. The bill also establishes a process for assessing and improving childcare service quality.

Furthermore, the bill formally obliges childcare providers to ensure the health, safety and well-being of the children to whom they provide childcare. The use of measures that could be detrimental to children is expressly forbidden.

The number of children that a natural person without a permit or recognition under the law may provide with childcare is reduced. Day care centre permit issuing is made subject to additional requirements and, in certain cases, the Minister must consult an educational childcare service supply advisory committee, whose composition and functions are determined by the bill.

In addition, all childcare providers are required to use the single-window access to childcare services designated by the Minister. The bill provides for sending new information to the Minister to identify the clientele and assess children's anticipated and actual attendance.

Lastly, new administrative penalties and penal sanctions are introduced.

LEGISLATION AMENDED BY THIS BILL:

- Educational Childcare Act (chapter S-4.1.1).

REGULATION AMENDED BY THIS BILL:

- Educational Childcare Regulation (chapter S-4.1.1, r. 2).

Bill 143

AN ACT TO IMPROVE THE EDUCATIONAL QUALITY AND FOSTER THE HARMONIOUS DEVELOPMENT OF EDUCATIONAL CHILDCARE SERVICES

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

EDUCATIONAL CHILDCARE ACT

1. Section 1 of the Educational Childcare Act (chapter S-4.1.1) is amended by inserting “, educational success” after “development” in the first paragraph.

2. Section 5 of the Act is amended by adding the following subparagraph after subparagraph 2 of the first paragraph:

“(3) fostering children’s educational success, particularly by facilitating their transition into the school system.”

3. The Act is amended by inserting the following sections after section 5:

“5.1. Childcare providers must, at the Minister’s request and in the manner determined by the Minister, participate in the process to assess and improve the educational quality of childcare.

The Minister determines the measurement tools to be used in this process and may require childcare providers and their participating staff to provide the Minister with the information and documents required and to complete a questionnaire assessing childcare quality.

The Minister may designate a person or body to develop measurement tools and collect and process the information, documents and questionnaire.

The Minister follows up on the results of the childcare educational quality assessment and improvement process with the childcare providers concerned.

“5.2. Childcare providers must ensure the health, safety and well-being of the children to whom they provide childcare.

Among other things, childcare providers may not apply degrading or abusive measures, use exaggerated punishment, denigration or threats, or employ abusive or disparaging language that could humiliate or frighten a child or undermine the child’s dignity or self-esteem.”

4. Section 6 of the Act is amended by replacing “to more than six children” by “to a child in return for a parental contribution”.

5. The Act is amended by inserting the following section after section 6:

“6.1. Section 6 does not apply to a natural person who

(1) is an own-account worker;

(2) provides childcare in a private residence where such childcare is not already being provided;

(3) receives up to four children of whom not more than two are under the age of 18 months, including the person’s own children under nine years of age and any other children under nine who ordinarily live with the person and are present while the childcare is provided.”

6. Section 11 of the Act is amended

(1) by inserting the following subparagraph after subparagraph 1.1 of the first paragraph:

“(1.2) the person shows the feasibility, relevance and quality of his or her project to the Minister’s satisfaction;”;

(2) by inserting the following paragraph after the first paragraph:

“A permit applicant is deemed to meet the condition set out in subparagraph 1.2 of the first paragraph if the Minister, in allocating new subsidized childcare spaces under section 93, granted the applicant such spaces on the recommendation of the advisory committee concerned. The same is true of a permit applicant who acquires the assets of a permit holder, provided the applicant continues to provide childcare in accordance with the same conditions as those stated on the permit holder’s permit under paragraphs 2 and 3 of section 12.”

7. The Act is amended by inserting the following sections after section 11:

“11.1. In assessing the criteria set out in subparagraph 1.2 of the first paragraph of section 11, the Minister consults the advisory committee concerned established under section 103.5 and considers, in particular,

(1) as regards feasibility: the applicant’s ability to complete his or her project according to realistic funding and deadlines;

(2) as regards relevance: whether the project meets the childcare service needs and priorities for developing such services in the territory where the applicant wishes to set up operations; and

(3) as regards quality: the correlation between the childcare services offered and the means used to carry out the project, the choice of the facility's location and the means implemented to ensure sound, efficient management of the day care centre's human, material, financial and information resources.

If the application concerns a Native community, the Minister consults that community only.

“11.2. The Minister assesses the childcare service needs and priorities for developing such services for every territory the Minister determines, considering, among other factors, the day care centre permits already issued, the permit applications and other applications for authorization under section 21.1 awaiting a decision and how well childcare service needs are already being met.

The Minister provides the permit applicant with the necessary information on the childcare service needs and priorities for developing such services in the territory where the applicant wishes to set up operations.”

8. The Act is amended by inserting the following section after section 21:

“21.1. A day care centre permit holder must obtain the Minister's written authorization before increasing the number of children beyond the maximum stated on the permit.

The same is true if the permit holder wishes to permanently relocate his or her facility to offer childcare services in another territory.

The Minister grants the authorization if the Minister judges that the change requested meets the criteria set out in subparagraph 1.2 of the first paragraph of section 11, taking section 11.1 into account.”

9. Section 24 of the Act is amended by adding the following paragraph at the end:

“However, the requirement of subparagraph 1.2 of the first paragraph of section 11 does not apply to the modification or renewal of a day care centre permit, except in the cases provided for in section 21.1.”

10. Section 28 of the Act is amended by replacing paragraph 5 by the following paragraph:

“(5) the permit holder contravenes section 5.2;”.

11. The Act is amended by inserting the following chapter after section 59:

“CHAPTER IV.1

“SINGLE-WINDOW ACCESS TO CHILDCARE SERVICES

“59.1. All childcare providers must register with the single-window access to childcare services designated by the Minister, according to the terms and conditions determined by the Minister.

“59.2. Childcare providers must use only the waiting list generated by the single-window access to childcare services to fill their childcare service supply.”

12. Section 93 of the Act is amended by replacing “101.1” in the second paragraph by “103.5”.

13. Section 94 of the Act is amended by replacing “101.1” in the first paragraph by “103.5”.

14. Section 94.2 of the Act is amended by replacing “101.1” by “103.5”.

15. Division III of Chapter VII of the Act, comprising sections 101.1 and 101.2, is repealed.

16. Section 101.3 of the Act is amended by replacing “any of sections 13, 14, 16 and 20” in the second paragraph by “the first paragraph of section 5.1 or any of sections 13, 14, 16, 20, 59.1, 59.2 and 102”.

17. Section 102 of the Act is amended

(1) by inserting “to identify its clientele, assess anticipated attendance, assess actual attendance by the children receiving childcare, or manage childcare service supply and demand or” after “whether” in the first paragraph;

(2) by replacing “functions or administer” in the second paragraph by “functions related to identifying its clientele, assessing anticipated attendance, assessing actual attendance by the children receiving childcare, managing childcare service supply and demand or to administer”;

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

“The information requested by the Minister under this section must be sent to the Minister within the time and in the manner determined by the Minister, in particular by Internet, using the computer system and software determined by the Minister.”

18. The Act is amended by inserting the following chapter after section 103.4:

“CHAPTER VIII.2

**“EDUCATIONAL CHILDCARE SERVICE SUPPLY ADVISORY
COMMITTEE**

“DIVISION I

“ESTABLISHMENT AND FUNCTIONS

“103.5. The Minister establishes an advisory committee for every territory the Minister determines.

The functions of each committee are

(1) to advise the Minister on assessing all day care centre project permit applications based on the criteria of feasibility, relevance and quality in accordance with section 11.1;

(2) to advise the Minister on all applications by day care centre permit holders to increase the maximum number of children stated on their permit or to permanently relocate their facility to offer services in another territory in accordance with the third paragraph of section 21.1;

(3) to advise the Minister on needs and priorities with respect to the allocation of new subsidized childcare spaces and to analyze all projects submitted and make recommendations to the Minister on the allocation of new spaces under section 93; and

(4) to advise the Minister when the Minister re-allocates spaces under section 94.

“DIVISION II

“COMPOSITION AND ORGANIZATION

“103.6. Each committee is composed of seven members, as follows:

(1) one person designated by the regional county municipalities of the territory concerned;

(2) one person designated by the integrated health and social services centres of the territory concerned;

(3) one person designated by the school boards of the territory concerned;

(4) one person designated by the body most representative of the childcare centres of the territory concerned;

(5) one person designated by the body most representative of the day care centres of the territory concerned which provide subsidized childcare;

(6) one person designated by the body most representative of the day care centres of the territory concerned which do not provide subsidized childcare; and

(7) one person designated by the body most representative of the home childcare coordinating offices of the territory concerned.

For the purposes of subparagraph 1 of the first paragraph, a local municipality whose territory is not included in that of a regional county municipality is considered a regional county municipality. The same is true of a responsible body referred to in section 21.5 of the Act respecting the Ministère des Affaires municipales, des Régions et de l'Occupation du territoire (chapter M-22.1), as regards the territory or community it represents.

The persons designated under subparagraphs 4 to 6 of the first paragraph must work or reside in the territory of the advisory committee concerned.

The Minister may also ask other bodies, including a community organization with a family-related mandate, to designate other committee members, for instance, if a person referred to in the first paragraph cannot be designated.

“103.7. Members are designated for a renewable three-year term.

When their term expires, members remain in office until reappointed or replaced.

“103.8. The dates of each committee’s meetings are determined by the Minister.

“103.9. Advisory committee members may not be prosecuted for acts performed in good faith in exercising their committee functions.”

19. The Act is amended by inserting the following sections after section 113:

“113.1. A childcare provider or an accredited home childcare coordinating office that refuses or fails to send the information requested by the Minister under section 102, within the time and in the manner determined by the Minister, is guilty of an offence and is liable to a fine of \$500 to \$5,000.

“113.2. A childcare provider that contravenes section 5.2 is guilty of an offence and is liable to a fine of \$5,000 to \$75,000.”

20. Section 116 of the Act is amended by replacing “86 or 95” by “59.1, 59.2, 86 or 95”.

EDUCATIONAL CHILDCARE REGULATION

21. Section 10 of the Educational Childcare Regulation (chapter S-4.1.1, r. 2) is amended by inserting the following paragraph after paragraph 10:

“(10.1) the implementation schedule, implementation budget, funding, and means implemented to ensure sound, effective management of human, material, financial and information resources;”.

22. Section 16.1 of the Regulation is amended by replacing “18 and 21” in the first paragraph by “18, 21 and 21.1”.

23. Section 75 of the Regulation is amended by inserting “5.2,” after “sections” in paragraph 1.

TRANSITIONAL AND FINAL PROVISIONS

24. A natural person who, on *(insert the date of coming into force of section 4)*, provides childcare services to five or six children has until *(insert the date that is one year after the date of coming into force of section 4)* to comply with section 6 of the Educational Childcare Act (chapter S-4.1.1), as amended by section 4.

The same is true for a legal person who, on *(insert the date of coming into force of section 4)*, provides childcare services to up to six children.

25. Any day care centre permit application filed before *(insert the date of introduction of this bill)* that is still pending on *(insert the date of assent to this Act)* continues to be subject to section 11 of the Educational Childcare Act as it read before the latter date, provided the application is completed before 31 March 2018.

26. Any day care centre permit application filed on or after *(insert the date of introduction of this bill)* that is still pending on *(insert the date of assent to this Act)* remains active and is decided on in accordance with the provisions of the Educational Childcare Act as they read on the latter date.

27. A home childcare provider who, on *(insert the date of assent to this Act)*, has not registered with the single-window access to childcare services provided for in section 59.1 of the Educational Childcare Act, enacted by section 11, has until 31 May 2018 to comply with sections 59.1 and 59.2, enacted by section 11.

28. A day care centre permit holder who has no subsidized childcare spaces under section 93 of the Educational Childcare Act and who, on *(insert the date of assent to this Act)*, has not registered with the single-window access to childcare services provided for in section 59.1 of the Educational Childcare Act, enacted by section 11, has until 1 April 2019 to comply with sections 59.1 and 59.2, enacted by section 11.

29. The provisions of this Act come into force on (*insert the date of assent to this Act*), except sections 4 and 5, which come into force on the date set by the Government.