



NATIONAL ASSEMBLY

FIRST SESSION

FORTY-FIRST LEGISLATURE

Bill 179

**An Act to amend the Act respecting
Access to documents held by public
bodies and the Protection of personal
information**

Introduction

**Introduced by
Madam Kathleen Weil
Minister responsible for Access to Information and the
Reform of Democratic Institutions**

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EXPLANATORY NOTES

This bill amends the Act respecting Access to documents held by public bodies and the Protection of personal information in several respects. It changes its title, introduces provisions to clarify its purpose and broadens its scope.

Public bodies are required to establish a committee on access to information and the protection of personal information whose mandate is to support the person exercising the highest authority within each of them in the exercise of his or her responsibilities and the performance of his or her obligations under the Act.

Public bodies are also required to adopt a plan governing the proactive distribution of the documents and information they hold that are accessible to the public and must adopt governance rules for the processing of personal information. In addition, public bodies that collect personal information through the Internet must publish a confidentiality policy on that network.

The bill sets rules for dealing with incidents affecting the security of personal information.

Certain rules governing access to documents held by public bodies are modified. In particular, the periods during which certain documents are not accessible are shortened and the persons in charge of access to documents are required to explain their refusal to release documents. The procedure before the Commission d'accès à l'information is also modified to, among other things, introduce the principle of proportionality in managing the proceedings and allow the parties to be represented by any person of their choice.

The penal provisions applicable when the Act is contravened are modified.

Lastly, the bill contains amending, transitional and final provisions.

LEGISLATION AMENDED BY THIS BILL:

- Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1);
- Health Insurance Act (chapter A-29);
- Act respecting the Barreau du Québec (chapter B-1);
- Charter of Ville de Montréal, metropolis of Québec (chapter C-11.4);
- Cities and Towns Act (chapter C-19);
- Highway Safety Code (chapter C-24.2);
- Professional Code (chapter C-26);
- Municipal Code of Québec (chapter C-27.1);
- Act respecting the Communauté métropolitaine de Montréal (chapter C-37.01);
- Act respecting the Communauté métropolitaine de Québec (chapter C-37.02);
- Election Act (chapter E-3.3);
- Act respecting the sectoral parameters of certain fiscal measures (chapter P-5.1);
- Act respecting the sharing of certain health information (chapter P-9.0001);
- Act respecting the protection of personal information in the private sector (chapter P-39.1);
- Act respecting the legal publicity of enterprises (chapter P-44.1);
- Act respecting occupational health and safety (chapter S-2.1);
- 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);
- Act respecting public transit authorities (chapter S-30.01);

- Securities Act (chapter V-1.1);
- Act respecting Northern villages and the Kativik Regional Government (chapter V-6.1).

REGULATION AMENDED BY THIS BILL:

- Rules of Proof and Procedure before the Commission d'accès à l'information (chapter A-2.1, r. 6).

Bill 179

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

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

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

1. The title of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1) is replaced by the following title:

“ACT RESPECTING ACCESS TO INFORMATION HELD BY PUBLIC BODIES AND THE PROTECTION OF PERSONAL INFORMATION”.

2. The Act is amended by inserting the following after the title:

“AS access to information held by public bodies and the protection of personal information contribute to securing the exercise of the right to information and securing respect for the right to private life, rights which are protected by the Charter of human rights and freedoms (chapter C-12), and as they contribute to supporting the values of a free and democratic society;

AS an open and transparent public administration promotes good governance, accountability and citizen participation;

AS the protection of personal information is a major issue in modern societies;

AS it is important to strike a balance between the right of access to documents held by public bodies and the protection of personal information;

AS it is important to maintain the Government’s capacity to function efficiently;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:”.

3. The Act is amended by inserting the following sections before section 1:

“**0.1.** The purpose of this Act is to confer on all persons a right of access to the information contained in documents held by public bodies. To that end, this Act determines conditions for the exercise of, and specific, limited restrictions to, that right. It also provides for the proactive distribution by public bodies of certain documents or information made accessible by law.

This Act is also intended to ensure the protection of personal information held by public bodies by setting rules applicable to the collection, use, release, keeping and destruction of such information. It ensures the confidentiality of such information and secures the right of the person concerned to the release and correction of such information.

Lastly, this Act sets rules that enshrine the paramount nature of the right of access to information held by public bodies and of the protection of personal information in Québec’s legal system.

“**0.2.** The purpose of this Act is also

(1) to ensure the diligent processing of requests for access to documents held by public bodies and of requests for the release or correction of personal information held by such bodies;

(2) to promote the rigorous, rational and proportionate exercise by public bodies of their discretion as to the restrictions applicable to the right of access, in order to foster consistency with the purposes of the Act; and

(3) to affirm the accountability of public bodies with respect to the confidentiality of the personal information they hold.”

4. Section 4 of the Act is replaced by the following section:

“**4.** For the purposes of this Act, an agency or person, other than an agency or person contemplated in any of sections 5 to 7, is a government agency or is considered to be one if

(1) the Government or a minister appoints the majority of its members;

(2) the law requires that its personnel be appointed in accordance with the Public Service Act (chapter F-3.1.1); or

(3) all its voting shares or all the shares of its capital stock form part of the domain of the State or, if it has an establishment in Québec, are owned by one or more public bodies.

For the purposes of this Act, the following agencies or persons are also considered to be government agencies:

(1) the Public Curator, to the extent that the Public Curator holds documents other than those referred to in section 2.2; and

(2) any person appointed by the Government or a minister, together with the personnel directed by that person, in the exercise of the functions assigned to that person by law, by the Government or by the minister.”

5. Section 5 of the Act is amended by inserting the following subparagraph after subparagraph 2.1 of the first paragraph:

“(2.2) any body whose annual income is equal to or greater than \$1,000,000 and for which a municipality contributes more than half the financing;”.

6. Section 7 of the Act is amended by striking out “, agencies referred to in that Act” in the first paragraph.

7. Section 8 of the Act is replaced by the following sections:

“8. The person exercising the highest authority within a public body shall see to ensuring that this Act is implemented and complied with within the body.

That person shall exercise the function of person in charge of access to documents or the protection of personal information. However, in the case of a government department, that function is exercised by the deputy minister and, in the case of a municipality or a school board, by the director general.

All or part of that function may be delegated in writing to a member of the public body or of its board of directors, as the case may be, or to a member of the management personnel.

When the person exercising the highest authority within a public body does not exercise that function himself, he must see to it that its exercise is facilitated.

The public body must, as soon as possible, notify the Commission in writing of the titles, contact information and starting date of the person who is to exercise the function of person in charge.

“8.1. A public body must establish a committee on access to information and the protection of personal information to support it in the exercise of its responsibilities and the performance of its obligations under this Act. The committee shall also exercise the functions entrusted to it by this Act.

The committee is under the responsibility of the person exercising the highest authority within the public body or, in the case of a government department, of the deputy minister and, in the case of a municipality or school board, of the director general. The other members of the committee are determined by government regulation.

Such a regulation may also assign other functions to the committee and establish the committee's operating rules. It may moreover exempt a public body from the obligation to establish such a committee or modify a body's obligations according to criteria it sets."

8. Section 9 of the Act is amended by striking out “, on request,” in the first paragraph.

9. Section 11 of the Act is amended by inserting “fully or partially” before “exempt from payment” in the third paragraph.

10. Section 13 of the Act is amended by replacing “16.1” at the end of the third paragraph by “52.2”.

11. The Act is amended by inserting the following sections after section 15:

“15.1. No public body may deny access to a document for the sole reason that the information constituting the document is dispersed on one or more technological media at one or more locations.

The right of access to such a document may be exercised to the extent that

(1) the information the document contains is accessible by law;

(2) the public body has the technology and technical expertise to constitute the document;

(3) the reliability and accuracy of the information can be guaranteed; and

(4) processing the request should not seriously interfere with the body's activities.

“15.2. If a public body has reasonable cause to believe that information reveals the existence of a serious risk to the life, health or safety of a person or an identifiable group of persons, or of serious or irreparable adverse effects on the quality of the environment, it must, as soon as possible, release the information to the public or to the persons concerned, despite any other provision of Division II.

However, the public body may not release personal information. Furthermore, a body is not required to release information if it is of the opinion that its release will have the foreseeable effect of hindering the intervention measures necessary to avoid the risk or the adverse effects on the quality of the environment.

The public body shall notify the interested persons and bodies before releasing the information or, if it cannot do so given the imminence of the risk or of the adverse effects on the quality of the environment, as soon as it is in a position to do so. The notice must, in particular,

- (1) indicate that the body intends to release information whose disclosure may affect the interests of the person or body;
- (2) identify the information; and
- (3) indicate the time limit within which the person or body may state the reasons for which the information should not be disclosed.”

12. Section 16.1 of the Act is repealed.

13. The heading of subdivision 1 before section 18 of the Act is amended by inserting “*and Aboriginal relations*” after “*intergovernmental relations*”.

14. Section 19 of the Act is amended by adding the following paragraph at the end:

“The same applies if its disclosure would likely be detrimental to relations between the Gouvernement du Québec and an Aboriginal nation represented by all the band councils of the communities that make up that nation, an Aboriginal community represented by its band council or by the northern village council, a group of communities so represented or any other Aboriginal group.”

15. Section 22 of the Act is amended

- (1) by replacing the first paragraph by the following paragraph:

“A public body may refuse to release industrial, financial, commercial, scientific or technical information that it owns and whose disclosure would likely

- (1) hamper negotiations toward a contract;
- (2) result in losses for the body; or
- (3) result in considerable profit for another person.”;

- (2) by striking out the second paragraph.

16. Section 23 of the Act is replaced by the following section:

“23. No public body may release industrial, financial, commercial, scientific, technical or union information supplied by a third person if its disclosure would likely

- (1) result in losses for the third person or substantially reduce the third person's competitive margin;
- (2) hamper negotiations toward a contract;
- (3) result in considerable profit for another person; or
- (4) interrupt the release of such information by the third person while it is in the body's interest that it continue.

However, the public body may release such information with the third person's consent.

For the purposes of the first paragraph, a clause of a contract resulting from negotiations between a third person and a public body does not constitute information supplied by a third person. Furthermore, another public body may not be considered a third person."

17. Sections 24 and 25 of the Act are repealed.

18. Section 30 of the Act is amended

- (1) by replacing both occurrences of "25" by "15";
- (2) by adding the following paragraphs at the end:

"The Secretary General of the Conseil exécutif may release information referred to in the first paragraph before the expiry of the time specified in that paragraph if the Secretary General considers that its disclosure is clearly in the public interest. The Secretary of the Conseil du trésor may also do so with respect to information referred to in the second paragraph.

If the Secretary intends to so release information, he shall notify the Conseil concerned to give it the opportunity to state the reasons for which the information should not be disclosed."

19. Section 32 of the Act is amended by inserting "pending or imminent" before "judicial".

20. Section 33 of the Act is amended by replacing "25" in the introductory clause of the first paragraph by "15".

21. The Act is amended by inserting the following section after section 33:

"33.1. The Secretary General of the Conseil exécutif may release information referred to in the first paragraph of section 33 before the expiry of the time specified in that paragraph if the Secretary General considers that its disclosure is clearly in the public interest.

However, the power provided for in the first paragraph is exercised by the Secretary of the Conseil du trésor when it concerns information produced by the Conseil du trésor or the secretariat of the Conseil du trésor or intended for them.

If the Secretary intends to so release information, he shall notify the persons or bodies concerned to give them the opportunity to state the reasons for which the information should not be disclosed.”

22. Section 34 of the Act is replaced by the following sections:

“**34.** No person may have access to a document produced

(1) by a minister or the minister’s office;

(2) by a Member of the National Assembly, including a Member contemplated in the first paragraph of section 124.1 of the Act respecting the National Assembly (chapter A-23.1), or the Member’s office;

(3) by a member of a municipal or school body or the member’s office; or

(4) by the services of the National Assembly for a Member of the National Assembly.

The minister, Member or member may grant access to such a document if he considers it appropriate.”

“**34.1.** No person may have access to a document produced by a public body for use by a minister or the minister’s office and relating to the minister’s parliamentary functions.

The minister may grant access to such a document if he considers it appropriate.”

23. Section 37 of the Act is amended

(1) by replacing both occurrences of “ten” by “five”;

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

“However, in the case of an opinion or a recommendation relating to a draft budget policy or made in the context of the negotiation of a collective agreement, the time period is ten years.”

24. Section 38 of the Act is amended by adding the following sentence at the end of the first paragraph: “Such a restriction to the right of access may no longer be invoked on the expiry of five years after the date the recommendation or opinion was made.”

25. The Act is amended by inserting the following sections after section 39:

“**39.1.** The following information does not constitute a recommendation, opinion or study within the meaning of sections 37 to 39:

- (1) factual information;
- (2) statistical data; and
- (3) opinion poll results.

“**39.2.** Sections 37 to 39 may not be invoked as reasons to refuse to release information contained in a feasibility or technical study or in an environmental impact assessment if the study or assessment is final.”

26. Section 41.1 of the Act is replaced by the following section:

“**41.1.** The restrictions set out in this division, except those set out in sections 28, 28.1, 29, 29.1, 30, 31 and 33, do not apply when, in exceptional circumstances, the disclosure of information is clearly in the public interest.

Nor do they apply to information concerning the quantity, quality or concentration of contaminants discharged by a source of contamination or concerning the presence of a contaminant in the environment within the meaning of the Environment Quality Act (chapter Q-2). However, the restrictions set out in sections 28, 28.1, 29 and, in the case of a document produced by or for the Auditor General, in section 41, apply to such information.”

27. Section 41.2 of the Act is amended

- (1) in the first paragraph,
 - (a) by striking out “24,” in the introductory clause;
 - (b) by inserting “person or” after “to a” in subparagraph 3;
 - (c) by striking out “or 24” in subparagraph 5;
- (2) by striking out “24,” in the fourth paragraph.

28. Section 41.3 of the Act is amended by striking out “or 24”.

29. Section 42 of the Act is amended by replacing “assist in” in the second paragraph by “provide assistance in formulating the request or”.

30. Section 43 of the Act is amended by striking out “by him” in the third paragraph.

31. Section 47 of the Act is amended

(1) in the first paragraph,

(a) by replacing “promptly” in the introductory clause by “as soon as possible”;

(b) by replacing “filed” in subparagraph 4 by “produced”;

(c) by striking out subparagraph 7;

(2) by replacing “by mail” in the second paragraph by “in writing”.

32. Section 48 of the Act is amended

(1) by replacing “filed” in the first paragraph by “produced”;

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

“The Government may, by regulation, define what is a document produced by or for another public body.”

33. Sections 49 and 50 of the Act are replaced by the following sections:

“49. If the person in charge intends to release information referred to in section 23, he must give the third person concerned written notice within 20 days after the request for access was received. The notice must, in particular, inform the third person of his right to submit observations, of the rules governing the application of section 23 and of the applicable time limits. The person in charge must also notify the applicant and inform him of the applicable time limits.

If the third person is opposed to the release of such information, he must specify in writing the reasons for which the information should not be released.

If the third person fails to reply within 20 days after the notice was received, he is deemed to have consented to the information being released.

If the person in charge does not succeed in notifying the third person in accordance with the first paragraph after taking reasonable steps to do so, he may notify the third person in another manner, such as by public notice as provided for in article 136 of the Code of Civil Procedure (chapter C-25.01). The person in charge must then inform the applicant within the time limit provided in that paragraph. If there is more than one third person concerned and more than one notice is required, all third persons are deemed to have been notified only once all the notices have been published.

“49.1. The notice referred to in section 49 is not required if the information was supplied under an Act that provides for the release of the information or if the third person has waived the notice by consenting to the release of the information or otherwise.

“49.2. The person in charge must send his decision to the applicant and the third person concerned within 15 days after the latter submits his observations or after the expiry of the time limit for submitting observations, whichever occurs first. If the person in charge has had to resort to giving public notice, the decision need only be sent to the third person who submitted written observations.

When the decision grants the release of information, it is executory on the expiry of the 15th day following the date it was sent.

“50. The person in charge must give the reasons for any refusal to release information and indicate the provision of law on which the refusal is based. If an applicant so requests, the person in charge must also assist him in understanding the decision.

When the reason for the refusal is that there is a risk of injury, the person in charge must explain to the applicant what injury releasing the information could cause, except in the case of a refusal to confirm the existence of a document. When providing explanations, the person in charge must take the necessary precautions so as not to reveal the information the public body wishes to protect.

No optional restrictions to the right of access provided for in Division II may be invoked after the expiry of the time limit provided in section 47, unless the Commission authorizes it if exceptional circumstances justify doing so.”

34. The Act is amended by inserting the following division after section 52.1:

“DIVISION IV

“PROACTIVE DISTRIBUTION

“52.2. A public body must adopt a plan for the distribution of documents and information made accessible by law; the distribution plan must be approved by its committee on access to information and the protection of personal information.

The public body must publish such documents and information as well as its distribution plan on the Internet.

“52.3. For the purposes of this division, the Government may prescribe by regulation

(1) the minimum content of the distribution plan, the period it is to cover and the intervals at which it is to be updated;

(2) rules concerning the distribution of data in open format;

(3) the content of the report on the implementation and application of the distribution plan, the period it is to cover and the intervals at which it is to be updated;

(4) rules, such as the use of metadata, to facilitate access to documents and information distributed by public bodies or the retrieval of such documents and information; and

(5) any other elements it determines.

The Government may also, on the terms and conditions it establishes, exempt a public body from the application of all or part of this division or modify the body’s obligations under this division.

“52.4. The public body must send a copy of its distribution plan to the minister responsible for the administration of this Act.

It must also send the minister a report on the implementation and application of the plan within four months after the end of the period covered by the plan.

“52.5. The committee on access to information and the protection of personal information must be consulted on any information system or electronic service delivery project and, if it considers it appropriate, suggest categories of information that should be distributed in accordance with this division, including data in open format.

“52.6. This division does not apply to the Lieutenant-Governor, the National Assembly or any person designated by the Assembly to an office under its jurisdiction.”

35. The Act is amended by inserting the following section after section 53:

“53.1. Consent to the release or use of personal information must be clear, free and informed and be given for specific purposes. Such consent is given only for the time necessary to attain the purposes for which it has been requested.

If such consent is given as part of a research activity approved by a research ethics committee formed within a public body, the purposes and time for which it has been given are interpreted so as to allow the attainment of any research objective associated with the activity and approved by the committee.”

36. Section 57 of the Act is amended, in the first paragraph,

(1) by inserting “, email address” after “address” in subparagraphs 1 and 2;

(2) by replacing “a member, the board of directors or the management personnel of a public body” in subparagraph 1 by “a member of a public body, its board of directors or its management personnel”.

37. Section 59 of the Act is amended, in the second paragraph,

(1) by inserting “person or” after “to a” in subparagraph 3;

(2) by striking out subparagraph 5;

(3) by replacing “61, 66, 67, 67.1, 67.2,” in subparagraph 8 by “61, 63.1.3, 66, 67, 67.1, 67.2, 67.2.1, 67.2.2.”.

38. Section 60 of the Act is amended

(1) by replacing “must refuse to” in the third paragraph by “must not”;

(2) by striking out “following a request made” in the fourth paragraph.

39. The Act is amended by inserting the following sections after section 63.1:

“63.1.1. A public body must publish on the Internet governance rules for the processing of personal information. Those rules must be approved by its committee on access to information and the protection of personal information.

The rules may be in the form of a policy, directive or guide and must define the roles and responsibilities of each person throughout the life cycle of such information. They must include a description of the training and awareness activities provided by the public body to its personnel on the protection of personal information. A copy of the rules must be sent to the minister responsible for the administration of this Act.

“63.1.2. A public body that collects personal information through the Internet must publish on the Internet a simple confidentiality policy drafted in clear language. A government regulation may determine certain elements and terms of the policy.

Any amendment to such a policy must be set out in a notice published prominently on the Internet.

“63.1.3. A public body that has cause to believe that a security incident involving personal information it holds has occurred must take the measures required to reduce the risk of injury and prevent new incidents of the same nature.

If the incident presents a risk of serious injury, the public body must notify the Commission with diligence. It must also notify any person whose personal information is affected by the incident without delay, failing which the Commission may order it to do so. It may also notify any other public body or agency of another government having an establishment in Québec that could reduce the risk, by releasing only the information necessary for that purpose. In the latter case, the person in charge of the protection of personal information within the body must record the release of information.

A government regulation may determine the content and terms of notices provided for in this section.

“63.1.4. For the purposes of this division, “security incident” means

- (1) access that is not authorized by law to personal information;
- (2) use of personal information for purposes other than those referred to in section 65.1;
- (3) release that is not authorized by law of personal information; or
- (4) theft or loss of personal information.

“63.1.5. In assessing the risk of injury to a person whose personal information is affected by a security incident, a public body must, in particular, take into account the sensitivity of the information concerned and the likeliness that such information will be used for injurious purposes. The body must also consult the person in charge of the protection of personal information.

“63.1.6. The Commission must publish on the Internet a register of the security incidents presenting a risk of serious injury. A government regulation may determine the content of the register.”

40. The Act is amended by inserting the following sections after section 63.2:

“63.3. A public body must assess and mitigate, if applicable, the risks to privacy and to the protection of personal information of any information system or electronic service delivery project involving the collection, use, release, keeping or destruction of such information.

For the purpose of assessing such risks, the public body must consult its committee on access to information and the protection of personal information as of the preliminary study of the project.

This section applies, in particular, to all projects involving video surveillance or geolocation or concerning biometric characteristics or measurements.

“63.4. A public body that wishes to conduct a survey involving personal information must consult its committee on access to information and the protection of personal information.

“63.5. The committee may, at any stage of a project referred to in section 63.3 or section 63.4, suggest personal information protection measures applicable to the project. Such measures may, in particular, include

(1) appointing a person responsible for the implementation of measures to protect personal information;

(2) measures to protect personal information in any document relating to the project, such as specifications or a contract, unless the person performing the contract is another public body;

(3) describing project participants’ responsibilities with regard to the protection of personal information; or

(4) holding training activities for project participants on the protection of personal information.”

41. The Act is amended by inserting the following sections after section 67.2:

“67.2.1. A public body may release personal information that it holds concerning a deceased person to the spouse or a close relative of the deceased person if knowledge of such information could help the applicant in the grieving process.

The person in charge of the protection of personal information within the public body must record the release of that information.

“67.2.2. A public body may, for study, research or statistics purposes, release personal information without the consent of the persons concerned if all the following conditions are met:

(1) the objective of the study or research or operation to collect statistics can be attained only if the information is released in a form allowing the persons concerned to be identified;

(2) it would be unreasonable to require the applicant to obtain the consent of the persons concerned;

(3) the objective of the study or research or operation to collect statistics prevails over the impact of the release and use of the information on the privacy of the persons concerned;

(4) the personal information will be used in such a manner as to ensure confidentiality; and

(5) only the necessary information is released.

“67.2.3. A person or body that wishes to obtain personal information for a purpose described in section 67.2.2 must show that the conditions set out in that section are met. To that end, the person or body must

(1) file a written application;

(2) enclose the research protocol with the application;

(3) indicate all the other public bodies with which the person or body is filing a similar application for the purposes of the same study or research or operation to collect statistics; and

(4) if applicable, submit the documented decision of a research ethics committee formed within a public body on the study or research or operation to collect statistics.

“67.2.4. A public body that is to release personal information in accordance with section 67.2.2 must first enter into an agreement with the person or body to which it is to send the information. The agreement must, in particular, stipulate that the information

(1) may be made accessible only to persons who need to know the information to exercise their functions and who have signed a confidentiality agreement;

(2) may not be used for different purposes than those specified in the research protocol, except with the authorization of the public body concerned;

(3) may not be cross-matched with any other information file that has not been provided for in the research protocol, such as a file received as part of another study; and

(4) may not be released, published or otherwise distributed in a form that allows the persons concerned to be identified.

The agreement must also

(1) if applicable, provide for the manner in which the consent of the persons concerned to participate in the study or research is to be obtained;

- (2) specify the other information that must be released to those persons;
- (3) provide that the public body and the Commission must be informed without delay of
 - (a) any failure to comply with any condition set out in the agreement;
 - (b) any breach of the security measures provided for in the agreement; and
 - (c) any event that could adversely affect the confidentiality of the information;
- (4) determine a renewable retention period for the information;
- (5) provide for the obligation to notify the public body of the destruction of the information; and
- (6) provide for measures to ensure the confidentiality and security of the information.

An agreement entered into under this section must be sent to the Commission.”

42. Section 67.3 of the Act is amended by inserting “67.2.2,” after “67.2,” in the first paragraph.

43. Section 68 of the Act is amended by inserting the following paragraph after the first paragraph:

“The information is released if all the following conditions are met:

- (1) the intended purpose can be attained only if the information is released in a form allowing the person concerned to be identified;
- (2) it would be unreasonable to require that the consent of the person concerned be obtained;
- (3) the purpose for which the information is required prevails over the impact of its release and use on the privacy of the person concerned;
- (4) the personal information will be used in such a manner as to ensure confidentiality; and
- (5) only the necessary information is released.”

44. Section 70 of the Act is amended

(1) by inserting “and be accompanied by any other document or information enabling it to give such an opinion, including the applicable legislative provisions, if any. The Commission must consider whether the agreement meets the conditions set out in section 68 or 68.1” at the end of the first paragraph;

(2) by striking out the second paragraph;

(3) in the third paragraph,

(a) by replacing “must give an opinion with reasons” by “must, as soon as possible, give an opinion which, if unfavourable, must include reasons,”;

(b) by adding the following sentences at the end: “The Commission must inform the public body if it intends to give an unfavourable opinion or if the body’s request is incomplete. In such a case, the time limit is suspended to allow the body to submit its observations and, if applicable, file the documents required to complete its request.”

45. Section 70.1 of the Act is replaced by the following section:

“70.1. Before releasing personal information outside Québec under the second paragraph of section 59, a public body must assess the risks to the privacy and to the protection of the personal information of the person concerned. It must, in particular, take into account

(1) the sensitivity of the information;

(2) the purposes for which the information is to be used;

(3) the security measures that would apply to the information; and

(4) the applicable legal framework in the State in which the information is to be released, including its degree of equivalency as compared with the personal information protection principles applicable in Québec.

The information is released under a written agreement covering, to the extent possible, such matters as the elements referred to in subparagraphs 1 to 4 of the first paragraph and, if applicable, the measures agreed on to mitigate the identified risks and impacts.

The same applies when the public body entrusts a body or person outside Québec, without the consent of the person concerned, with the task of collecting or keeping such information on its behalf.

This section does not apply to the release of information under subparagraph 4 of the second paragraph of section 59, under subparagraph 1.1 of the first paragraph of section 68 or within the scope of an international commitment referred to in Chapter III of the Act respecting the Ministère des Relations internationales (chapter M-25.1.1) or of an agreement referred to in Chapter III.1 or III.2 of that Act.”

46. Section 79 of the Act is amended

(1) by replacing “63.1 to 66” in the first paragraph by “63.1 to 63.1.2, 63.2 to 66”;

(2) by replacing “63.1 to 66, 67.3 and 67.4 and 71 to 76” in the second paragraph by “63.1 to 63.1.2, 63.2 to 66, 67.3, 67.4 and 71 to 76”.

47. Section 85 of the Act is amended by inserting “fully or partially” before “exempt from payment” in the third paragraph.

48. Section 88 of the Act is amended by inserting “in particular by invading that other person’s privacy in an unreasonable manner,” after “harm that other person,”.

49. Section 88.1 of the Act is amended by replacing “A” at the beginning by “Except in the case provided for in section 67.2.1, a”.

50. Section 94 of the Act is amended by striking out “by him” in the third paragraph.

51. Section 98 of the Act is amended

(1) by replacing “promptly” in the first paragraph by “as soon as possible”;

(2) by replacing “by mail” in the second paragraph by “in writing”.

52. Section 100 of the Act is replaced by the following section:

“100. When the person in charge refuses a request, he must indicate the provision of law on which the refusal is based. If an applicant so requests, the person in charge must also assist him in understanding the decision.

When the reason for the refusal is that there is a risk of injury, the person in charge must explain to the applicant what injury releasing the information could cause, except in the case of a refusal to confirm the existence of a document. When providing explanations, the person in charge must take the necessary precautions so as not to reveal the information the public body wishes to protect.

No optional restrictions to the right of access provided for in Division IV may be invoked after the expiry of the time limit provided in section 98, unless the Commission authorizes it if exceptional circumstances justify doing so.

Despite the preceding paragraphs, the public body may, in accordance with section 87, at any time refuse to release or to confirm the existence of personal information to the extent that its release would reveal information whose release must be refused under Division II of Chapter II or under sections 108.3 and 108.4 of the Professional Code (chapter C-26).”

53. Section 107.1 of the Act is repealed.

54. The Act is amended by inserting the following sections after section 110:

“110.0.1. The chair may delegate all or some of the chair’s powers and duties to the vice-chair.

In addition, the chair may designate the vice-chair as the person in charge of one of the two divisions of the Commission.

“110.0.2. In addition to the powers and duties that may be delegated to him by the chair or otherwise assigned to him, the vice-chair must

- (1) assist and advise the chair in the exercise of his functions;
- (2) perform his administrative functions under the chair’s authority; and
- (3) replace the chair if the latter is absent or unable to act or if the office of chair is vacant.”

55. The Act is amended by inserting the following section after section 116:

“116.1. The Government may, by regulation, set the fee payable for any act performed by the Commission.”

56. Section 118 of the Act is amended

- (1) by replacing “to the designated Minister” in the first paragraph by “the minister responsible for the administration of this Act”;
- (2) by inserting “and with any other subject the Minister may submit to the Commission” at the end of the fourth paragraph.

57. Section 120 of the Act is amended by replacing “designated Minister” in the first paragraph by “minister responsible for the administration of this Act”.

58. Section 122.1 of the Act is amended by inserting “, in particular by holding training and awareness activities” at the end of the second paragraph.

59. Section 123 of the Act is amended

(1) by inserting “, in particular following the identification, by the adjudication division, of a systemic issue within a public body” at the end of paragraph 1;

(2) by striking out paragraph 4;

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

“(7) conduct or commission research, inventories, studies or analyses and make them public; and

“(8) provide opinions on proposed legislation and information system development projects.”

60. Section 125 of the Act is repealed.

61. Section 129 of the Act is amended by inserting “within the time limit the Commission specifies” at the end of the third paragraph.

62. Section 130.2 of the Act is amended, in the second paragraph,

(1) by inserting “2,” after “paragraphs 1,”;

(2) by replacing “sections 123.1 and 125” by “section 123.1”.

63. Section 133 of the Act is amended

(1) by replacing “National Assembly or” by “National Assembly,”;

(2) by inserting “or inform the public of it” at the end.

64. The Act is amended by inserting the following sections after section 134.2:

“134.3. When exercising the functions and powers provided for in this division, the Commission and its members are vested with the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (chapter C-37), except the power to order imprisonment.

“134.4. The parties may be represented by the person of their choice before the Commission.

“134.5. The parties to a proceeding must ensure that their actions, their pleadings and the means of proof they use are proportionate, in terms of the cost and time involved, to the nature and complexity of the matter and the purpose of the application.

The Commission must likewise observe the principle of proportionality in managing the proceedings it is assigned. It must ensure that the measures and acts it orders or authorizes are in keeping with the same principle, while having regard to the proper administration of justice.”

65. Section 136 of the Act is amended

(1) by replacing “mailing” in the first paragraph by “date of transmission”;

(2) by replacing “Except in the case contemplated in the first paragraph of section 41.1, the” in the second paragraph by “The”.

66. Section 137 of the Act is amended by replacing “by mail” in the fourth paragraph by “in writing”.

67. Section 137.1 of the Act is amended

(1) in the first paragraph,

(a) by replacing “applications” and “an application” by “requests” and “a request”, respectively;

(b) by adding the following sentence at the end: “It may also, among other things, limit the scope of a request or extend the time limit for replying.”;

(2) by replacing “applications” in the second paragraph by “requests”;

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

“The authorization request must be filed, from the date the applicant’s latest request was received, within the same time limit as would be applicable to the processing of a request under section 47 or 98.”

68. Section 137.2 of the Act is amended by adding the following paragraph at the end:

“In such cases, the Commission may prohibit a person from bringing an application or presenting a pleading in an ongoing proceeding except with the authorization of and subject to the conditions determined by the chair of the Commission.”

69. The Act is amended by inserting the following section after section 137.3:

“137.4. The Commission may, at any stage of the proceeding, use technological means that are available to both the parties and itself. It may, even on its own initiative, order that such means be used by the parties. If the Commission considers it necessary, it may also, despite an agreement between the parties, require a person to appear in person at a hearing, a conference or an examination.”

70. Section 138.1 of the Act is replaced by the following sections:

“138.1. On receiving an application, the Commission must offer the parties the opportunity to submit their dispute to mediation and, after obtaining their consent, designate a mediator.

“138.2. The Commission may call the parties to a pre-hearing conference on the appropriate means of simplifying and shortening the case.”

71. Section 139 of the Act is amended by replacing “135, 137.1, 137.2,” by “135, 136, 137.1, 137.2, 138.1, 138.2”.

72. Section 141.1 of the Act is amended by adding the following sentence at the end of the second paragraph: “It may, if the parties agree to it, make its decision on the face of the file.”

73. Section 155 of the Act is amended

(1) by striking out the first paragraph;

(2) by replacing the second paragraph by the following paragraph:

“In exercising any power to make regulations under this Act, the Government or the minister, as the case may be, may establish categories of persons, public bodies, information, documents and files. The Government or the minister may also entrust functions relating to access to documents or the protection of personal information to any person it or he designates.”

74. The Act is amended by inserting the following section after section 155:

“155.1. The Government may determine the regulatory provisions it makes under this Act whose violation constitutes an offence and renders the offender liable to a fine the minimum and maximum amounts of which are set by the Government.

The maximum penalties under the first paragraph may not exceed those prescribed in section 158. The penalties may in particular vary according to the importance of the standards that have been infringed.”

75. Section 156 of the Act is amended

(1) by replacing “designated minister” by “minister responsible for the administration of this Act”;

(2) by replacing “every draft regulation” by “every draft regulation made under this Act”.

76. Sections 158 and 159 of the Act are replaced by the following sections:

“158. Anyone who

(1) denies or impedes access to a document or to information that is accessible by law, in particular by unduly delaying its release or by destroying, modifying or concealing the document,

(2) grants access to a document to which the law does not allow access or to which a public body refuses access in accordance with the law,

(3) informs a person of the existence of information he does not have the right to be informed of under the law,

(4) hinders the person in charge of access to documents or the protection of personal information in the performance of his functions,

(5) collects or uses personal information in contravention of the law,

(6) fails to report a security incident to the persons concerned or to the Commission although required to do so, or

(7) fails to comply with the conditions set out in an agreement entered into under section 67.2.4,

is guilty of an offence and is liable to a fine of \$1,000 to \$10,000 in the case of a natural person and \$3,000 to \$30,000 in all other cases.

“159. Anyone who

(1) contravenes section 67.2 or 70.1,

(2) impedes the progress of an inquiry or inspection by the Commission or the hearing of a request or application by the Commission by providing it with false or inaccurate information, by omitting to provide the information it requires or otherwise,

(3) releases personal information in contravention of the law, or

(4) contravenes an order of the Commission,

is guilty of an offence and is liable to a fine of \$5,000 to \$50,000 in the case of a natural person and \$15,000 to \$150,000 in all other cases.”

77. Sections 159.1 to 162 of the Act are repealed.

78. The Act is amended by inserting the following sections after section 164:

“**164.1.** In the case of a subsequent offence, the fines under this division are doubled.

“**164.2.** All penal proceedings must be instituted within three years of the commission of the offence.”

79. The Act is amended by inserting the following section after section 172:

“**172.1.** No public body is liable for injury resulting from its having, in good faith, released or failed to release information pursuant to sections 15.2 and 41.1.”

80. Section 174 of the Act is amended

(1) by adding the following sentence at the end of the third paragraph: “To that end, the Minister shall develop such resources as guides and tools.”;

(2) in the fourth paragraph,

(a) by striking out “departments and” in subparagraph 3;

(b) by adding the following subparagraphs at the end:

“(4) issue directives to public bodies relating to the application of this Act and the regulations; and

“(5) establish rules for keeping the register provided for in section 67.3.”;

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

“Every five years, the Minister shall table in the National Assembly a report on the administration of this Act by public bodies.”

AMENDING PROVISIONS

HEALTH INSURANCE ACT

81. Section 67 of the Health Insurance Act (chapter A-29) is amended by replacing “by the Commission d’accès à l’information” in the ninth paragraph by “in accordance with section 67.2.2 of the Act respecting access to information held by public bodies and the protection of personal information (chapter A-2.1)”.

ACT RESPECTING THE BARREAU DU QUÉBEC

82. Section 128 of the Act respecting the Barreau du Québec (chapter B-1) is amended by inserting the following subparagraph after subparagraph 4 of paragraph *a* of subsection 2:

“(4.1) the Commission d’accès à l’information;”.

CHARTER OF VILLE DE MONTRÉAL, METROPOLIS OF QUÉBEC

83. Section 57.1.13 of the Charter of Ville de Montréal, metropolis of Québec (chapter C-11.4) is amended

(1) in the first paragraph,

(a) by replacing “25” in subparagraph 2 by “15”;

(b) by inserting “pending or imminent” before “judicial” in subparagraph 5;

(c) by replacing “25” in subparagraphs 7 to 13 by “15”;

(d) by replacing subparagraphs 14 and 15 by the following subparagraphs:

“(14) a document produced

(a) by a minister or the minister’s office;

(b) by a Member of the National Assembly, including a Member contemplated in the first paragraph of section 124.1 of the Act respecting the National Assembly (chapter A-23.1), or the Member’s office;

(c) by a member of a municipal or school body or the member’s office; or

(d) by the services of the National Assembly for a Member of the National Assembly;

“(15) a document produced by a public body for use by a minister or the minister’s office and relating to the minister’s parliamentary functions;”;

(e) by replacing “10” wherever it appears in subparagraphs 16 and 18 by “five”;

(f) by inserting “; however, in the case of an opinion or recommendation relating to a draft budget policy or made in the context of the negotiation of a collective agreement, the time period is ten years” at the end of subparagraph 18;

(g) by inserting “or if less than five years have elapsed since the date the opinion or recommendation was issued or made” after “authority having jurisdiction” in subparagraph 19;

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

“Subparagraphs 18 to 20 of the first paragraph do not apply to information contained in a feasibility or technical study or in an environmental impact assessment if the study or assessment is final.”

CITIES AND TOWNS ACT

84. Section 573.3 of the Cities and Towns Act (chapter C-19) is amended by replacing “Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1)” in subparagraph 2 of the first paragraph by “Act respecting access to information held by public bodies and the protection of personal information (chapter A-2.1), except bodies referred to in subparagraph 2.2 of the first paragraph of section 5 of that Act”.

HIGHWAY SAFETY CODE

85. Section 648 of the Highway Safety Code (chapter C-24.2) is amended by replacing “subparagraphs 1 and 2 of the first paragraph of section 155” in paragraph 3.1 by “section 11 or 85”.

PROFESSIONAL CODE

86. Section 108.6 of the Professional Code (chapter C-26) is amended

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

“(1) the name, title, duties and salary of the president and the executive director;”;

(2) by inserting the following paragraph after paragraph 1:

“(1.1) the name, title and duties of the secretary, assistant secretary, a syndic, the secretary of the disciplinary council and the members of the personnel of an order;”;

(3) by replacing “and duties” in paragraph 2 by “, duties and salary”.

MUNICIPAL CODE OF QUÉBEC

87. Article 938 of the Municipal Code of Québec (chapter C-27.1) is amended by replacing “Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1)” in subparagraph 2 of the first paragraph by “Act respecting access to information held by public bodies and the protection of personal information (chapter A-2.1), except bodies referred to in subparagraph 2.2 of the first paragraph of section 5 of that Act”.

ACT RESPECTING THE COMMUNAUTÉ MÉTROPOLITAINE DE MONTREAL

88. Section 112.4 of the Act respecting the Communauté métropolitaine de Montréal (chapter C-37.01) is amended by replacing “Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1)” in subparagraph 2 of the first paragraph by “Act respecting access to information held by public bodies and the protection of personal information (chapter A-2.1), except bodies referred to in subparagraph 2.2 of the first paragraph of section 5 of that Act”.

ACT RESPECTING THE COMMUNAUTÉ MÉTROPOLITAINE DE QUÉBEC

89. Section 105.4 of the Act respecting the Communauté métropolitaine de Québec (chapter C-37.02) is amended by replacing “Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1)” in subparagraph 2 of the first paragraph by “Act respecting access to information held by public bodies and the protection of personal information (chapter A-2.1), except bodies referred to in subparagraph 2.2 of the first paragraph of section 5 of that Act”.

ELECTION ACT

90. Section 570 of the Election Act (chapter E-3.3) is amended by striking out the second paragraph.

ACT RESPECTING THE SECTORAL PARAMETERS OF CERTAIN FISCAL MEASURES

91. Section 31 of the Act respecting the sectoral parameters of certain fiscal measures (chapter P-5.1) is amended by replacing “sections 23 and 24” in the second paragraph by “section 23”.

ACT RESPECTING THE SHARING OF CERTAIN HEALTH INFORMATION

92. Section 106 of the Act respecting the sharing of certain health information (chapter P-9.0001), enacted by section 106 of chapter 23 of the statutes of 2012, is again amended, in subparagraph 4 of the first paragraph,

- (1) by striking out “by the Commission d’accès à l’information”;
- (2) by replacing “125” by “67.2.2”.

ACT RESPECTING THE LEGAL PUBLICITY OF ENTERPRISES

93. Section 101 of the Act respecting the legal publicity of enterprises (chapter P-44.1) is amended, in the second paragraph,

- (1) by striking out “and 5”;
- (2) by replacing “section 67 or 68” by “any of sections 67, 67.2.2 and 68”.

94. Section 121 of the Act is amended, in subparagraph 2 of the third paragraph,

- (1) by striking out “or 5”;
- (2) by replacing “section 67 or 68” by “any of sections 67, 67.2.2 and 68”.

ACT RESPECTING OCCUPATIONAL HEALTH AND SAFETY

95. Section 175 of the Act respecting occupational health and safety (chapter S-2.1) is amended

(1) by striking out “and notwithstanding subparagraph 5 of the second paragraph of section 59 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1)” in the first paragraph;

(2) by replacing “125 of the said Act” in the second paragraph by “67.2.2 of the Act respecting access to information held by public bodies and the protection of personal information (chapter A-2.1)”.

ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES

96. Section 19.2 of the Act respecting health services and social services (chapter S-4.2) is amended by replacing “125” in the second paragraph by “67.2.2”.

ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES FOR CREE NATIVE PERSONS

97. Section 7 of the Act respecting health services and social services for Cree Native persons (chapter S-5) is amended, in the fourth paragraph,

(1) by striking out “, notwithstanding subparagraph 5 of the second paragraph of section 59 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1),”;

(2) by replacing “125 of that Act” by “67.2.2 of the Act respecting access to information held by public bodies and the protection of personal information (chapter A-2.1)”.

ACT RESPECTING PUBLIC TRANSIT AUTHORITIES

98. Section 101.1 of the Act respecting public transit authorities (chapter S-30.01) is amended by replacing “Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1)” in subparagraph 2 of the first paragraph by “Act respecting access to information held by public bodies and the protection of personal information (chapter A-2.1), except bodies referred to in subparagraph 2.2 of the first paragraph of section 5 of that Act”.

SECURITIES ACT

99. Section 297.6 of the Securities Act (chapter V-1.1) is amended by replacing “sections 23 and 24” by “section 23”.

ACT RESPECTING NORTHERN VILLAGES AND THE KATIVIK REGIONAL GOVERNMENT

100. Section 204.3 of the Act respecting Northern villages and the Kativik Regional Government (chapter V-6.1) is amended by replacing “Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1)” in paragraph 2 by “Act respecting access to information held by public bodies and the protection of personal information (chapter A-2.1), except bodies referred to in subparagraph 2.2 of the first paragraph of section 5 of that Act”.

101. Section 358.3 of the Act is amended by replacing “Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1)” in paragraph 2 by “Act respecting access to information held by public bodies and the protection of personal information (chapter A-2.1), except bodies referred to in subparagraph 2.2 of the first paragraph of section 5 of that Act”.

RULES OF PROOF AND PROCEDURE BEFORE THE COMMISSION D’ACCÈS À L’INFORMATION

102. Section 1 of the Rules of Proof and Procedure before the Commission d’accès à l’information (chapter A-2.1, r. 6) is amended by replacing “in sections 25 and” in paragraph 3 by “in section”.

TRANSITIONAL AND FINAL PROVISIONS

103. Unless the context indicates otherwise, in any Act, regulation or other document, a reference to the Act respecting Access to documents held by public bodies and the Protection of personal information becomes a reference to the Act respecting access to information held by public bodies and the protection of personal information.

104. The obligation to release information provided for in section 15.2 of the Act respecting access to information held by public bodies and the protection of personal information, enacted by section 11, does not apply to information held by a public body on (*insert the date preceding the date of coming into force of that section*).

105. The time periods specified in sections 30, 33, 37 and 38 of the Act respecting access to information held by public bodies and the protection of personal information, as amended by sections 18, 20, 23 and 24, apply only to requests for access made after (*insert the date that is two years after the date of assent to this Act*).

106. This Act comes into force on (*insert the date that is one year after the date of assent to this Act*), except

(1) section 8.1 of the Act respecting access to information held by public bodies and the protection of personal information, enacted by section 7, which comes into force with respect to a public body on the date of coming into force of the first regulation made under section 8.1 of that Act concerning that body;

(2) sections 52.2 to 52.6 of the Act respecting access to information held by public bodies and the protection of personal information, enacted by section 34, which come into force with respect to a public body on the date of coming into force of the first regulation made under section 52.3 of that Act concerning that body; and

(3) the following provisions, which come into force on the date of coming into force of the first regulation made under section 63.1.3 of the Act respecting access to information held by public bodies and the protection of personal information:

(a) sections 10 and 12;

(b) sections 63.1.3 to 63.1.6 of the Act respecting access to information held by public bodies and the protection of personal information, enacted by section 39; and

(c) paragraph 1 of section 73, insofar as it relates to the repeal of subparagraph 3.1 of the first paragraph of section 155 of the Act respecting access to information held by public bodies and the protection of personal information.

