



NATIONAL ASSEMBLY OF QUÉBEC

FIRST SESSION

FORTY-SECOND LEGISLATURE

Bill 21

**An Act respecting the laicity of
the State**

Introduction

**Introduced by
Mr. Simon Jolin-Barrette
Minister of Immigration, Diversity and Inclusiveness**

**Québec Official Publisher
2019**

EXPLANATORY NOTES

The purpose of this bill is to affirm the laicity of the State and to set out the requirements that follow from it.

To that end, the bill provides that the laicity of the State is based on four principles: the separation of State and religions, the religious neutrality of the State, the equality of all citizens, and freedom of conscience and freedom of religion. Parliamentary, government and judicial institutions are bound to adhere to these principles in pursuing their missions. However, with respect to judges of the Court of Québec, the Human Rights Tribunal, the Professions Tribunal and the municipal courts, as well as presiding justices of the peace, responsibility for establishing rules translating the requirements of State laicity and for ensuring their implementation is assigned to the Conseil de la magistrature.

The bill proposes to prohibit certain persons from wearing religious symbols while exercising their functions. However, the prohibition does not apply to certain persons holding positions at the time the bill is introduced, subject to the conditions specified by the bill.

Under the bill, personnel members of a body must exercise their functions with their face uncovered, and persons who present themselves to receive a service from such a personnel member must have their face uncovered when doing so is necessary to allow their identity to be verified or for security reasons. Persons who fail to comply with that obligation may not receive the service. However, those obligations do not apply to persons whose face is covered for reasons of health or a handicap, or because of the requirements tied to their functions or to the performance of certain tasks.

In addition, the bill amends the Charter of human rights and freedoms to specify that persons must maintain proper regard for State laicity in exercising their fundamental freedoms and rights.

The bill's provisions prevail over those of any subsequent Act, unless expressly stated otherwise. The bill may not be interpreted as affecting the emblematic or toponymic elements of Québec's cultural heritage that testify to its history.

The bill has effect despite certain provisions of the Charter of human rights and freedoms and the Constitution Act, 1982.

Lastly, the bill contains consequential amendments and various interpretative, transitional and final provisions.

LEGISLATION AMENDED BY THIS BILL:

- Charter of human rights and freedoms (chapter C-12);
- Act to foster adherence to State religious neutrality and, in particular, to provide a framework for requests for accommodations on religious grounds in certain bodies (R-26.2.01).

Bill 21

AN ACT RESPECTING THE LAICITY OF THE STATE

AS the Québec nation has its own characteristics, one of which is its civil law tradition, distinct social values and a specific history that have led it to develop a particular attachment to State laicity;

AS the Québec State stands on constitutional foundations that have been enriched over the years by the passage of a number of fundamental laws;

AS, in accordance with the principle of parliamentary sovereignty, it is incumbent on the Parliament of Québec to determine the principles according to which and manner in which relations between the State and religions are to be governed in Québec;

AS it is important that the paramountcy of State laicity be enshrined in Québec's legal order;

AS the Québec nation attaches importance to the equality of women and men;

AS a stricter duty of restraint regarding religious matters should be established for persons exercising certain functions, resulting in their being prohibited from wearing religious symbols in the exercise of their functions;

AS State laicity contributes to the fulfilment of the magistrature's duty of impartiality;

AS State laicity should be affirmed in a manner that ensures a balance between the collective rights of the Québec nation and human rights and freedoms;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

AFFIRMATION OF THE LAICITY OF THE STATE

- 1.** The State of Québec is a lay State.
- 2.** The laicity of the State is based on the following principles:
 - (1) the separation of State and religions;
 - (2) the religious neutrality of the State;

- (3) the equality of all citizens; and
- (4) freedom of conscience and freedom of religion.

3. State laicity requires parliamentary, government and judicial institutions to comply with the principles listed in section 2, in fact and in appearance, in pursuing their missions.

For the purposes of this chapter,

(1) “parliamentary institutions” means the National Assembly and the persons appointed or designated by it to an office under its authority;

(2) “government institutions” means the bodies listed in paragraphs 1 to 10 of Schedule I;

(3) “judicial institutions” means the Court of Appeal, the Superior Court, the Court of Québec, the Human Rights Tribunal, the Professions Tribunal and the municipal courts.

4. In addition to the requirement under section 3, State laicity requires compliance with the prohibition on wearing religious symbols under Chapter II of this Act, and with the duty of religious neutrality under Chapter II of the Act to foster adherence to State religious neutrality and, in particular, to provide a framework for requests for accommodations on religious grounds in certain bodies (chapter R-26.2.01), by the persons subject to that prohibition or that duty.

5. It is incumbent on the Conseil de la magistrature, with respect to judges of the Court of Québec, the Human Rights Tribunal, the Professions Tribunal and the municipal courts, as well as presiding justices of the peace, to establish rules translating the requirements of State laicity and to ensure their implementation.

Despite subparagraph 3 of the second paragraph of section 3, the requirement to comply with the principles set out in section 2 applies to judges only to the extent provided for in this section.

CHAPTER II

PROHIBITION ON WEARING RELIGIOUS SYMBOLS

6. The persons listed in Schedule II are prohibited from wearing religious symbols in the exercise of their functions.

CHAPTER III

SERVICES WITH FACE UNCOVERED

7. For the purposes of this chapter, “personnel member of a body” means a member of the personnel of a body listed in Schedule I or a person listed in Schedule III who is considered to be such a member.

8. Personnel members of a body must exercise their functions with their face uncovered.

Similarly, persons who present themselves to receive a service from a personnel member of a body must have their face uncovered where doing so is necessary to allow their identity to be verified or for security reasons. Persons who fail to comply with that obligation may not receive the service requested, where applicable.

For the purposes of the second paragraph, persons are deemed to be presenting themselves to receive a service when they are interacting or communicating with a personnel member of a body in the exercise of the personnel member’s functions.

9. Section 8 does not apply to persons whose face is covered for health reasons or because of a handicap or of requirements tied to their functions or to the performance of certain tasks.

10. A body listed in Schedule I may require, from any persons or partnerships with whom or which it enters into a contract, or to whom or which it grants financial assistance, that members of their personnel exercise their functions with their face uncovered, if the contract or the granting of financial assistance is for the provision of services that are inherent in the body’s mission or if the services are performed in its personnel’s place of work. The same applies to a parliamentary institution referred to in subparagraph 1 of the second paragraph of section 3.

CHAPTER IV

MISCELLANEOUS PROVISIONS

11. The provisions of this Act prevail over any contrary provisions of any subsequent Act, unless such an Act expressly states that it applies despite this Act.

The provisions of sections 1 to 3 do not prevail over any contrary provisions of any previous Act.

12. It is incumbent on the person exercising the highest administrative authority, where applicable, over the persons referred to in section 6 or the first paragraph of section 8 to take the necessary measures to ensure compliance with the measures set out in those provisions. That function may be delegated to a person within the same organization.

13. No accommodation or other derogation or adaptation, except those provided for in this Act, may be granted in connection with the provisions concerning the prohibition on wearing religious symbols or concerning the obligations relating to services with one's face uncovered.

14. Where the prohibition on wearing religious symbols applies to a lawyer or notary referred to in paragraph 8 of Schedule II, the obligation is deemed to be an integral part of the legal services contract under which the lawyer or notary acts.

15. A provision of a collective agreement, group agreement or any other contract concerning conditions of employment that is incompatible with the provisions of this Act is absolutely null.

16. This Act must not be interpreted as affecting the emblematic or toponymic elements of Québec's cultural heritage, in particular of its religious cultural heritage, that testify to its history.

CHAPTER V

AMENDING PROVISIONS

CHARTER OF HUMAN RIGHTS AND FREEDOMS

17. The Charter of human rights and freedoms (chapter C-12) is amended by inserting the following paragraph after the third paragraph of the preamble:

“Whereas the Québec nation considers State laicity to be of fundamental importance;”.

18. Section 9.1 of the Charter is amended by inserting “State laicity,” after “democratic values,” in the first paragraph.

ACT TO FOSTER ADHERENCE TO STATE RELIGIOUS NEUTRALITY AND, IN PARTICULAR, TO PROVIDE A FRAMEWORK FOR REQUESTS FOR ACCOMMODATIONS ON RELIGIOUS GROUNDS IN CERTAIN BODIES

19. The preamble to the Act to foster adherence to State religious neutrality and, in particular, to provide a framework for requests for accommodations on religious grounds in certain bodies (chapter R-26.2.01) is repealed.

20. Section 1 of the Act is amended

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

“This Act imposes, to the extent it provides for, a duty of religious neutrality on personnel members of public bodies in the exercise of their functions, in accordance with the requirements of State laicity.”;

(2) by striking out the second paragraph.

21. Section 9 of the Act and Division II of Chapter III of the Act, comprising section 10, are repealed.

22. Section 12 of the Act is amended by replacing the second paragraph by the following paragraph:

“The guidelines must be made public using the means the Minister considers appropriate.”

23. Division IV of Chapter III of the Act, comprising section 15, is repealed.

24. Section 17 of the Act is amended by replacing the last sentence of the first paragraph by the following sentences: “That person may delegate the function to a person within his or her organization. In addition, that person must designate an accommodation officer within the personnel.”

25. The Act is amended by inserting the following section after section 17:

“**17.1.** No accommodation or other derogation or adaptation, except those provided for in this Act, may be granted in connection with the provisions of this Act that concern fulfillment of the duty of religious neutrality.”

26. Section 19 of the Act is replaced by the following section:

“**19.** The minister designated by the Government is responsible for the administration of this Act.”

CHAPTER VI

TRANSITIONAL AND FINAL PROVISIONS

27. Section 6 does not apply

(1) to persons referred to in any of paragraphs 2, 3, 7 and 9 of Schedule II on (*insert the date preceding the date of introduction of this bill*), for as long as they exercise the same function within the same organization;

(2) to persons referred to in paragraph 4 or 5 of Schedule II on (*insert the date preceding the date of introduction of this bill*), until the end of their mandate;

(3) to persons, except the Minister of Justice and Attorney General, referred to in paragraph 6 of Schedule II on (*insert the date preceding the date of introduction of this bill*), for as long as they exercise the same function and are under the authority of the same organization;

(4) to persons referred to in paragraph 8 of Schedule II acting in accordance with a legal services contract entered into before (*insert the date of assent to this Act*), unless the contract is renewed after that date;

(5) to persons referred to in paragraph 10 of Schedule II on (*insert the date preceding the date of introduction of this bill*), for as long as they exercise the same function within the same school board.

28. Until the Government makes an order designating a minister responsible for the administration of this Act and the Act to foster adherence to State religious neutrality and, in particular, to provide a framework for requests for accommodations on religious grounds in certain bodies (chapter R-26.2.01), the Minister of Immigration, Diversity and Inclusiveness is responsible for their administration.

29. This Act and the amendments made by it to the Act to foster adherence to State religious neutrality and, in particular, to provide a framework for requests for accommodations on religious grounds in certain bodies apply despite sections 1 to 38 of the Charter of human rights and freedoms (chapter C-12).

30. This Act and the amendments made by Chapter V of this Act have effect notwithstanding sections 2 and 7 to 15 of the Constitution Act, 1982 (Schedule B to the Canada Act, chapter 11 in the 1982 volume of the Acts of the Parliament of the United Kingdom).

31. The minister designated by the Government is responsible for the administration of this Act.

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

SCHEDULE I
(Sections 3, 7 and 10)

BODIES

- (1) government departments;
- (2) budget-funded bodies, bodies other than budget-funded bodies and government enterprises listed in Schedules 1 to 3 to the Financial Administration Act (chapter A-6.001), including the persons listed in those schedules, as well as bodies whose capital forms part of the domain of the State;
- (3) bodies and persons whose personnel is appointed in accordance with the Public Service Act (chapter F-3.1.1);
- (4) government agencies listed in Schedule C to the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (chapter R-8.2), including the persons listed in that schedule;
- (5) municipalities, metropolitan communities, intermunicipal boards and municipal and regional housing bureaus, except municipalities governed by the Cree Villages and the Naskapi Village Act (chapter V-5.1) or the Act respecting Northern villages and the Kativik Regional Government (chapter V-6.1);
- (6) public transit authorities, the Autorité régionale de transport métropolitain and any other operator of a shared transportation system;
- (7) school boards established under the Education Act (chapter I-13.3), the Commission scolaire du Littoral established by the Act respecting the Commission scolaire du Littoral (1966-1967, chapter 125), the Comité de gestion de la taxe scolaire de l'île de Montréal, general and vocational colleges established under the General and Vocational Colleges Act (chapter C-29), and university-level educational institutions listed in paragraphs 1 to 11 of section 1 of the Act respecting educational institutions at the university level (chapter E-14.1);
- (8) public institutions governed by the Act respecting health services and social services (chapter S-4.2), except public institutions referred to in Parts IV.1 and IV.3 of that Act, joint procurement groups referred to in section 435.1 of that Act, and health communication centres referred to in the Act respecting pre-hospital emergency services (chapter S-6.2);
- (9) bodies the majority of whose members are appointed by the National Assembly;
- (10) inquiry commissions established under the Act respecting public inquiry commissions (chapter C-37);

(11) childcare centres, home childcare coordinating offices and subsidized day care centres governed by the Educational Childcare Act (chapter S-4.1.1);

(12) institutions accredited for the purposes of subsidies under the Act respecting private education (chapter E-9.1), and institutions whose instructional program is the subject of an international agreement within the meaning of the Act respecting the Ministère des Relations internationales (chapter M-25.1.1); and

(13) private institutions under agreement, intermediary resources and family-type resources governed by the Act respecting health services and social services.

SCHEDULE II
(Sections 6, 14 and 27)

PERSONS SUBJECT TO THE PROHIBITION ON WEARING RELIGIOUS
SYMBOLS IN THE EXERCISE OF THEIR FUNCTIONS

- (1) the President and Vice-Presidents of the National Assembly;
- (2) administrative justices of the peace referred to in section 158 of the Courts of Justice Act (chapter T-16), special clerks, clerks, deputy clerks, sheriffs and deputy sheriffs referred to in sections 4 to 5 of that Act, clerks and deputy clerks referred to in section 57 of the Act respecting municipal courts (chapter C-72.01), and bankruptcy registrars;
- (3) members or commissioners, as applicable, who exercise their functions within the Comité de déontologie policière, the Commission d'accès à l'information, the Commission de la fonction publique, the Commission de protection du territoire agricole du Québec, the Commission des transports du Québec, the Commission municipale du Québec, the Commission québécoise des libérations conditionnelles, the Régie de l'énergie, the Régie des alcools, des courses et des jeux, the Régie des marchés agricoles et alimentaires du Québec, the Régie du bâtiment du Québec, the Régie du logement, the Financial Markets Administrative Tribunal, the Administrative Tribunal of Québec or the Administrative Labour Tribunal, as well as disciplinary council chairs who exercise their functions within the Bureau des présidents des conseils de discipline;
- (4) commissioners appointed by the Government under the Act respecting public inquiry commissions (chapter C-37), and lawyers or notaries acting for such a commission;
- (5) arbitrators appointed by the Minister of Labour whose name appears on a list drawn up by that minister in accordance with the Labour Code (chapter C-27);
- (6) the Minister of Justice and Attorney General, the Director of Criminal and Penal Prosecutions, and persons who exercise the function of lawyer, notary or criminal and penal prosecuting attorney and who are under the authority of a government department, the Director of Criminal and Penal Prosecutions, the National Assembly, a person appointed or designated by the National Assembly to an office under its authority or a body referred to in paragraph 3;
- (7) persons who exercise the function of lawyer and are employed by a prosecutor referred to in paragraph 2 or 3 of article 9 of the Code of Penal Procedure (chapter C-25.1), unless the prosecutor is referred to in paragraph 6, when those persons are acting in criminal or penal matters for such a prosecutor before the courts or with third persons;

- (8) lawyers or notaries acting before the courts or with third persons in accordance with a legal services contract entered into with a minister, the Director of Criminal and Penal Prosecutions, the National Assembly, a person appointed or designated by the National Assembly to exercise a function under its authority or a body referred to in paragraph 3, or lawyers acting in criminal or penal matters before the courts or with third persons in accordance with a legal services contract entered into with a prosecutor referred to in paragraph 7;
- (9) peace officers who exercise their functions mainly in Québec; and
- (10) principals, vice principals and teachers of educational institutions under the jurisdiction of a school board established under the Education Act (chapter I-13.3) or of the Commission scolaire du Littoral established by the Act respecting the Commission scolaire du Littoral (1966-1967, chapter 125).

SCHEDULE III

(Section 7)

PERSONS CONSIDERED TO BE PERSONNEL MEMBERS OF A BODY FOR THE PURPOSES OF MEASURES RELATING TO SERVICES WITH FACE UNCOVERED

- (1) Members of the National Assembly;
- (2) elected municipal officers, except those of municipalities governed by the Cree Villages and the Naskapi Village Act (chapter V-5.1) or by the Act respecting Northern villages and the Kativik Regional Government (chapter V-6.1);
- (3) personnel members of an office referred to in section 114.4 of the Cities and Towns Act (chapter C-19);
- (4) commissioners of school boards established under the Education Act (chapter I-13.3) and the manager and assistant manager appointed under section 4 of the Act respecting the Commission scolaire du Littoral (1966-1967, chapter 125);
- (5) National Assembly personnel members and Lieutenant-Governor staff members;
- (6) persons appointed or designated by the National Assembly to an office under its authority and the personnel directed by them;
- (7) commissioners appointed by the Government under the Act respecting public inquiry commissions (chapter C-37) and the personnel directed by them;
- (8) persons appointed by the government or by a minister to exercise an adjudicative function within the administrative branch, including arbitrators whose name appears on a list drawn up by the Minister of Labour in accordance with the Labour Code (chapter C-27);
- (9) peace officers who exercise their functions mainly in Québec;
- (10) physicians, dentists and midwives, when those persons are practising in a centre operated by a public institution referred to in paragraph 8 of Schedule I;
- (11) persons recognized as subsidized home childcare providers under the Educational Childcare Act (chapter S-4.1.1) and the persons directed by them;
- (12) directors or members of a body referred to in any of paragraphs 1 to 9 of Schedule I who receive remuneration from the body other than the reimbursement of their expenses, except persons who are elected;

(13) any other persons appointed or designated by the National Assembly, the Government or a minister, when those persons are exercising functions assigned to them by the National Assembly, the law, the Government or the minister.