



NATIONAL ASSEMBLY OF QUÉBEC

FIRST SESSION

FORTY-SECOND LEGISLATURE

Bill 396

An Act to amend the Civil Code to provide that an action for damages for bodily injury resulting from a sexual aggression, from childhood violence or from the violent behaviour of a spouse or former spouse cannot be prescribed during the lifetime of the author of the act

Introduction

**Introduced by
Madam Christine Labrie
Member for Sherbrooke**

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EXPLANATORY NOTES

This bill amends the provisions in the Civil Code relating to prescription for actions for damages for bodily injury resulting from a sexual aggression, from childhood violence or from the violent behaviour of a spouse or former spouse.

The bill provides that such actions cannot be prescribed during the lifetime of the author of the act. It then provides that the prescriptive period for the victim's action against the succession of the author of the act is three years from the discharge of the liquidator and that the action by the victim's heirs is prescribed three years from the date of the victim's death or the date of the author's death, whichever is later, without exceeding three years from the discharge of the succession's liquidator.

The bill further provides that an action against any person other than the author of the act cannot be prescribed during the victim's lifetime.

The bill provides that the new provisions relating to prescription are retroactive. It also grants any victim whose action was dismissed by a judgment that has become final the right to institute a new action within five years of the coming into force of those provisions, if the action was dismissed on the ground that it was prescribed.

LEGISLATION AMENDED BY THIS BILL:

– Civil Code of Québec.

Bill 396

AN ACT TO AMEND THE CIVIL CODE TO PROVIDE THAT AN ACTION FOR DAMAGES FOR BODILY INJURY RESULTING FROM A SEXUAL AGGRESSION, FROM CHILDHOOD VIOLENCE OR FROM THE VIOLENT BEHAVIOUR OF A SPOUSE OR FORMER SPOUSE CANNOT BE PRESCRIBED DURING THE LIFETIME OF THE AUTHOR OF THE ACT

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CIVIL CODE OF QUÉBEC

1. Article 2926.1 of the Civil Code of Québec is amended by replacing the first paragraph by the following paragraph:

“An action for damages for bodily injury resulting from an act which could constitute a criminal offence, other than an act referred to in article 2926.2, is prescribed 10 years from the date the victim becomes aware that the injury suffered is attributable to that act.”

2. The Code is amended by inserting the following article after article 2926.1:

“2926.2. An action for damages for bodily injury resulting from a sexual aggression, from childhood violence or from the violent behaviour of a spouse or former spouse cannot be prescribed during the lifetime of the author of the act.

In the case of an action against the succession of the author of the act, the prescriptive period is three years from the discharge of the liquidator. However, an action by the heirs of the victim is prescribed three years from the date of death of the victim or the date of death of the author of the act, whichever is later, without exceeding three years from the discharge of the liquidator.

The prescriptive period for an action against any person other than the author of the act is three years from the date of death of the victim or the date of death of the author of the act, whichever is later.”

FINAL PROVISIONS

3. Article 2926.2 of the Civil Code, enacted by section 2 of this Act, is declaratory.

4. Within five years of the coming into force of this Act, the victim of an act referred to in article 2926.2 of the Civil Code, enacted by this Act, whose action for damages for bodily injury was dismissed by a judgment that has become final may institute a new action if

(1) the action was instituted before this Act came into force;

(2) the action was dismissed on the ground that it was prescribed; and

(3) the action has not been extinguished by the application of article 2926.2 of the Code.

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