



NATIONAL ASSEMBLY OF QUÉBEC

FIRST SESSION

FORTY-SECOND LEGISLATURE

Bill 45

**An Act concerning mainly the
appointment and the terms of office
of coroners and of the Chief Coroner**

Introduction

**Introduced by
Madam Geneviève Guilbault
Minister of Public Security**

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EXPLANATORY NOTES

This bill mainly amends the Act respecting the determination of the causes and circumstances of death.

The bill replaces the title of that Act so that it becomes the Coroners Act.

The bill sets the rules for appointing the Chief Coroner, the Deputy Chief Coroners and coroners. It also provides that the Chief Coroner, the Deputy Chief Coroners and permanent coroners are no longer to be appointed during good behaviour but rather for a five-year term. The title of permanent coroner is replaced by that of full-time coroner to reflect this change. As for part-time coroners, the bill determines they are to be appointed for a fixed term of up to five years. In addition, it establishes that the terms of full-time coroners and part-time coroners are renewable and specifies the applicable term renewal rules. The terms of the Chief Coroner and the Deputy Chief Coroners are not renewable, however.

The bill establishes the circumstances in which the Chief Coroner, a Deputy Chief Coroner or a coroner may be provisionally relieved of his or her duties, with salary, by the Minister of Public Security.

Moreover, the bill grants the Chief Coroner new powers. He or she may, in particular, issue notices to the authorities concerned and to the population, in certain circumstances, to better inform them of the risk of death and of the measures that could be implemented to reduce it. The Chief Coroner is also authorized, in certain cases, to designate a coroner other than the one initially responsible for an investigation to conduct or to complete the investigation.

The bill also proposes to modify the duties of office of a coroner by adding new powers and new obligations. Among other things, it allows a coroner conducting an inquest to order in camera proceedings in certain circumstances. In addition, it requires the coroner to postpone drawing up a report of investigation, in particular when the Director of Criminal and Penal Prosecutions has authorized a prosecution following a person's death. It also requires a coroner who suspects the presence of a threat to the health of the population to notify the appropriate public health director.

The bill establishes the rules applicable to the disposal and preservation of an organ, of tissue or of an organ or tissue sample when a physician conducts an autopsy at a coroner's request. It also specifies that a professional authorized by law may take from a dead body the specimens required for an expertise ordered by the coroner.

The bill imposes an obligation to notify a coroner or a peace officer when a child dies while in the custody of a person recognized as a home childcare provider.

The bill imposes an obligation on persons, associations, departments or agencies to whom or which recommendations have been transmitted by the Chief Coroner to confirm to the latter that they have considered the recommendations and to inform him or her of the measures they intend to take to correct the situation concerned.

The bill proposes that a peace officer's report no longer accompany a coroner's report of investigation or inquest. It prescribes rules concerning the consultation or transmission of certain documents, in particular those used by a coroner during an investigation or inquest, and specifies that documents admitted as evidence at an inquest are public.

Lastly, the bill contains technical, consequential and transitional provisions.

LEGISLATION AMENDED BY THIS BILL:

- Act to modify the organization and governance of the health and social services network, in particular by abolishing the regional agencies (chapter O-7.2);
- Act respecting the determination of the causes and circumstances of death (chapter R-0.2);
- Public Health Act (chapter S-2.2).

Bill 45

AN ACT CONCERNING MAINLY THE APPOINTMENT AND THE TERMS OF OFFICE OF CORONERS AND OF THE CHIEF CORONER

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING THE DETERMINATION OF THE CAUSES AND CIRCUMSTANCES OF DEATH

1. The title of the Act respecting the determination of the causes and circumstances of death (chapter R-0.2) is replaced by the following title:

“Coroners Act”.

2. Section 5 of the Act is replaced by the following sections:

“5. The Government shall, on the recommendation of the Minister of Public Security, appoint full-time coroners and part-time coroners from among persons declared qualified for appointment to those offices according to the recruiting and selection procedure established by government regulation.

“5.1. Full-time coroners are appointed for a term of five years.

However, the Government may determine a shorter term of a fixed duration in a coroner’s instrument of appointment if the candidate so requests for serious reasons or if special circumstances stated in the instrument of appointment require it.

“5.2. The term of office of a full-time coroner is renewed for five years, according to the renewal procedure established by government regulation, unless

(1) the coroner is notified otherwise, at least three months before the expiry of his term, by the agent authorized for that purpose by the Government; or

(2) the coroner requests otherwise and so notifies the Minister of Public Security at least three months before the expiry of the coroner’s term.

However, the Government may determine a shorter term of a fixed duration in the coroner’s instrument of renewal if the coroner so requests for serious reasons or if special circumstances stated in the instrument of appointment require it.

“5.3. Part-time coroners are appointed for a fixed term of up to five years which is renewed according to the renewal procedure established by government regulation.”

3. Section 6 of the Act is repealed.

4. Section 7 of the Act is amended by inserting “a death that has occurred in a particular event or into” after “into”.

5. Section 8 of the Act is replaced by the following section:

“8. The Government shall, on the recommendation of the Minister of Public Security, appoint the Chief Coroner from among persons declared qualified for appointment to that office according to the recruiting and selection procedure established by government regulation.

The Government may also, on the recommendation of the Minister of Public Security and after consultation with the Chief Coroner, appoint up to two Deputy Chief Coroners from among persons declared qualified for appointment to that office according to the recruiting and selection procedure established by government regulation. The Minister shall designate one Deputy Chief Coroner to replace the Chief Coroner when the latter is absent or unable to act or when the office of Chief Coroner is vacant.”

6. Section 9 of the Act is amended

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

“The Chief Coroner and the Deputy Chief Coroners are appointed for a term of five years, which may not be renewed.”;

(2) by striking out “or reappointed” in the second paragraph.

7. Section 13 of the Act is replaced by the following sections:

“13. The Chief Coroner and the Deputy Chief Coroners shall perform their duties on a full-time basis.

“13.1. The Minister of Public Security may, in a presumed case of serious fault, provisionally relieve the Chief Coroner, a Deputy Chief Coroner or a coroner of the duties of office, with salary, when the urgency of the situation requires prompt intervention.”

8. Section 14 of the Act is amended by striking out “permanent” and “with or”.

9. Section 15 of the Act is amended by striking out “with or”.

10. Section 21 of the Act is amended by replacing “A coroner who ceases to hold the office of Chief Coroner or Deputy Chief Coroner after holding that office for five years or more and who remains a permanent coroner” and “salary of a permanent coroner is equal to his salary” by “On ceasing to hold office, the Chief Coroner or a Deputy Chief Coroner is appointed as a full-time coroner and” and “salary of a full-time coroner has caught up with it”, respectively.

11. Section 23 of the Act is amended by adding the following paragraph at the end:

“The Chief Coroner may also, in particular after having certified a series of deaths that have occurred in similar circumstances, observed a new morbidity phenomenon, or identified within the population a situation involving avoidable mortality risks, issue a notice to better inform the authorities concerned and the population of the risk of death and of the measures that could be implemented to reduce it.”

12. The Act is amended by inserting the following section after section 23:

“23.1. The Chief Coroner may, for the period he determines, allow a coroner to complete an investigation or inquest already assigned to the coroner although the latter has resigned or his term has expired.”

13. Section 31 of the Act is amended by striking out the following sentence: “However, in no case may the Chief Coroner allow the report of a peace officer to be examined unless it has been filed as evidence at an inquest or unless the Minister of Public Security or the person he designates for that purpose has granted express authorization.”

14. Section 32 of the Act is amended by replacing “adopt, by regulation,” in paragraph 1 by “prescribe”.

15. Section 33 of the Act is amended by replacing “the agency unless the agency” in the second paragraph by “the Minister of Health and Social Services unless that Minister”.

16. Section 37 of the Act is amended by replacing “Act to secure handicapped persons in the exercise of their rights with a view to achieving social, school and workplace integration (chapter E-20.1)” in paragraph 2 by “Individual and Family Assistance Act (chapter A-13.1.1)”.

17. Section 38 of the Act is amended

(1) by replacing “Penitentiary Act (Revised Statutes of Canada, 1985, chapter P-5)” in paragraph 2 by “Corrections and Conditional Release Act (Statutes of Canada, 1992, chapter 20)”;

(2) by replacing “a security unit” in paragraph 3 by “an intensive supervision unit”.

18. Section 39 of the Act is replaced by the following section:

“39. Where a child dies while in the custody of a childcare provider, whether a childcare centre, a day care centre within the meaning of the Educational Childcare Act (chapter S-4.1.1) or a person recognized as a home childcare provider under that Act, the childcare provider or the person in authority in the place where the child is in custody shall immediately notify a coroner or a peace officer. The same applies for the person referred to in section 6.1 of that Act.”

19. Section 45 of the Act is amended by inserting “, unless a summary examination of the facts makes it possible to establish the elements mentioned in section 2 and the death does not appear to have occurred as a result of negligence or in obscure or violent circumstances” at the end of the first paragraph.

20. Section 46 of the Act is amended by replacing the second paragraph by the following paragraph:

“However, the Chief Coroner may designate another coroner to conduct or to complete the investigation

- (1) at the request of the coroner responsible for the investigation;
- (2) if the coroner responsible for the investigation is unable to conduct or to complete the investigation;
- (3) if the complexity of the causes or the circumstances of death so require;
- (4) for the proper dispatch of business; or
- (5) if, in his opinion, a report of investigation has not been completed within a reasonable time.”

21. Section 74 of the Act is amended by inserting “or any other professional authorized by law” after “physician”.

22. The Act is amended by inserting the following section after section 76:

“76.1. A physician who performs an autopsy at the request of a coroner and who preserves an organ or tissue for the purposes of an expertise shall notify the coroner so that the latter may inform the person who claims the body.

The organ or tissue is disposed of with biomedical waste if

- (1) no one has claimed the body;
- (2) the person who claimed the body has expressed the intention not to recover the organ or tissue; or

(3) the person who claimed the body has not recovered the organ or tissue within 30 days after being informed by a notice sent to his last known address that it is no longer required.

If a deceased person's identity cannot be established, an organ or tissue sample is preserved at the coroner's request for the purposes of the person's future identification."

23. Section 90 of the Act is amended by replacing "section 100 or 102" by "section 90.2, 100 or 102".

24. The Act is amended by inserting the following division after section 90:

"DIVISION IV.1

"CONSULTATION AND TRANSMISSION OF DOCUMENTS DURING AN INVESTIGATION

"90.1. After consultation with the Chief Coroner, a coroner may, before his report is drawn up, allow the documents listed in section 93 to be consulted by or, after payment of the charge fixed by regulation, send certified copies of them to

(1) a person, association, department or agency establishing to the coroner's satisfaction that the documents will be used to learn or establish his or its rights;

(2) a department or public agency establishing to the coroner's satisfaction that it will use the documents in the pursuit of the public interest; or

(3) a physician establishing to the coroner's satisfaction that the documents are necessary for the purpose of preventing or screening for disease in a member of the deceased person's family.

"90.2. Access to a document or receipt of a document in accordance with section 90.1 does not constitute an authorization to publish or release information it contains that has not been made public, unless it is necessary for the purposes provided for in any of paragraphs 1 to 3 of that section."

25. The Act is amended by inserting the following section after section 91:

"91.1. Despite section 91, when the Director of Criminal and Penal Prosecutions has authorized a prosecution following a person's death, the coroner shall postpone drawing up his report until the end of the criminal proceedings.

Similarly, the coroner shall postpone drawing up his report if a record is submitted to the Director of Criminal and Penal Prosecutions for examination as to whether proceedings should be instituted or if the causes and circumstances of a death allow the coroner to believe that a record could be so submitted.

However, the coroner may, in the cases provided for in the second paragraph, draw up his report if he is of the opinion that he may not further postpone doing so. The coroner shall then consult the police force concerned or the Director of Criminal and Penal Prosecutions to ensure that the report does not contain any information which may impede the investigation.”

26. Section 93 of the Act is amended by striking out paragraph 2.

27. The Act is amended by inserting the following section after section 94:

“94.1. A coroner may correct his report if it contains an error in writing or calculation or any other clerical error.

The coroner may also revise his report where new facts that warrant a revision are subsequently brought to his attention or to the attention of the Chief Coroner. The report is then transmitted to the latter.

If the coroner who drew up a report is no longer in office or is absent or unable to act, another coroner authorized by the Chief Coroner may correct or revise the report.”

28. Section 98 of the Act is amended by adding the following paragraph at the end:

“The persons, associations, departments or agencies to whom or which such recommendations have been transmitted must, within the time specified by the Chief Coroner, confirm to the latter that they have considered the recommendations and inform him of the measures they intend to take to correct the situation concerned.”

29. Section 100 of the Act is amended by striking out the second paragraph.

30. Section 101 of the Act is amended

(1) in the first paragraph,

(a) by replacing “permanent coroner may allow consultation of the unexpurgated report or accompanying documents” in the introductory clause by “full-time coroner may allow the unexpurgated report or accompanying documents to be consulted by”;

(b) by inserting “to” at the end of the introductory clause;

(c) by replacing “to a” and “to his satisfaction” in subparagraphs 1 and 2 by “a” and “to the Chief’s or coroner’s satisfaction”, respectively;

(d) by adding the following subparagraph at the end:

“(3) a physician establishing to the Chief’s or coroner’s satisfaction that the documents are necessary for the purpose of preventing or screening for disease in a member of the deceased person’s family.”;

(2) by striking out the second paragraph.

31. Section 102 of the Act is replaced by the following section:

“102. Access to a document or receipt of a document in accordance with section 101 does not constitute an authorization to publish or release information it contains that has not been made public, unless it is necessary for the purposes provided for in any of paragraphs 1 to 3 of that section.”

32. Section 110 of the Act is amended

(1) by replacing “the Government, at the request of the Chief Coroner,” by “the Chief Coroner”;

(2) by striking out the following sentence: “The Government shall also fix the remuneration and conditions of employment of the assessor.”;

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

“The Government shall fix the remuneration and conditions of employment applicable to assessors.”

33. Section 111 of the Act is amended by inserting “and sections 90.1 and 90.2” after “sections 47 to 85”.

34. Section 140 of the Act is amended by adding the following sentence at the end: “A coroner may make an exception to the principle of open inquests if, in the coroner’s opinion, the public interest or the protection of a person’s privacy, reputation or right to a just and fair trial requires that the inquest be held in camera.”

35. The Act is amended by inserting the following section after section 140:

“140.1. A document admitted as evidence at an inquest is public and may be consulted by any person, unless it is subject to a ban on publication or release under this Act.”

36. Section 148 of the Act is amended by replacing “section 100 or section 102” by “section 90.2, 100 or 102”.

37. Section 162 of the Act is amended by striking out “; however, the report of the peace officer is public if it has been admitted as evidence at the inquest and when, upon request, the coroner or Chief Coroner transmits a certified copy of the unexpurgated report and the documents accompanying it to the advocate representing the Attorney General at the inquest” in the first paragraph.

38. Section 163 of the Act is replaced by the following sections:

“163. The Government shall establish, by regulation, the procedure for recruiting and selecting persons qualified for appointment as coroner, Chief Coroner or Deputy Chief Coroner.

The regulation may, in particular,

(1) determine the publicity to be made for recruitment purposes and its content;

(2) determine the eligibility requirements and the application procedure to be followed by candidates;

(3) authorize the establishment of selection committees to assess the qualifications of candidates and formulate an opinion concerning them, and determine the composition of the committees and the mode of appointment of committee members;

(4) determine the selection criteria to be taken into account by a committee;

(5) determine the information a committee may require from a candidate and the consultations it may hold; and

(6) determine the period for which a certificate of qualification is valid.

“163.1. The Government shall establish, by regulation, the procedure for renewing a coroner’s term.

The regulation may, in particular,

(1) authorize the establishment of examination committees and determine their composition and the mode of appointment of committee members;

(2) determine the criteria to be taken into account by a committee; and

(3) determine the information a committee may require from a coroner and the consultations it may hold.

An examination committee may not make a recommendation against renewing a coroner’s term without first informing the office holder of its intention to do so and of the reasons for its recommendation, and without giving the office holder an opportunity to make representations.

“163.2. The members of a selection committee or of an examination committee receive no remuneration except in the cases and on the conditions that may be determined by the Government.

They are, however, entitled to the reimbursement of any expenses incurred in the performance of their duties, on the conditions determined by the Government.

“163.3. No judicial proceedings may be brought against the members of a selection committee or of an examination committee for any act done in good faith in the performance of their duties.”

39. Section 164 of the Act is amended by inserting “or section 163.1” after “contemplated in section 163” in the first paragraph.

40. Section 166 of the Act is repealed.

41. Section 168 of the Act is amended by replacing “any documents accompanying the reports” in subparagraph 7 of the first paragraph by “a document listed in section 93”.

42. Section 180 of the Act is amended by inserting “documents that are consulted or transmitted during an investigation or inquest as well as” after “concerning”.

ACT TO MODIFY THE ORGANIZATION AND GOVERNANCE OF THE HEALTH AND SOCIAL SERVICES NETWORK, IN PARTICULAR BY ABOLISHING THE REGIONAL AGENCIES

43. Section 116 of the Act to modify the organization and governance of the health and social services network, in particular by abolishing the regional agencies (chapter O-7.2) is repealed.

PUBLIC HEALTH ACT

44. Section 93 of the Public Health Act (chapter S-2.2) is amended by inserting “or coroner” after “physician” in the first paragraph.

TRANSITIONAL AND FINAL PROVISIONS

45. Unless the context indicates otherwise and with the necessary modifications,

(1) in the Act respecting the determination of the causes and circumstances of death (chapter R-0.2) and the regulations,

(a) “permanent coroner” is replaced by “full-time coroner”;

(b) “Laboratoire de médecine légale du Québec” and “Laboratoire de police scientifique du Québec” are replaced by “Laboratoire de sciences judiciaires et de médecine légale”;

(2) in any other Act and in any regulation, “Act respecting the determination of the causes and circumstances of death” is replaced by “Coroners Act”.

46. Unless the context indicates otherwise and with the necessary modifications, in any other document,

(1) a reference to the Act respecting the determination of the causes and circumstances of death is a reference to the Coroners Act;

(2) a reference to a permanent coroner is a reference to a full-time coroner;

(3) a reference to the Laboratoire de médecine légale du Québec or to the Laboratoire de police scientifique du Québec is a reference to the Laboratoire de sciences judiciaires et de médecine légale.

47. A permanent coroner in office on the date of coming into force of section 2 becomes, from that date, a full-time coroner appointed for a 10-year term. The salary and other conditions of employment provided for in his or her deed of appointment are maintained until the end of the term.

A part-time coroner in office on the date of coming into force of section 2 remains a part-time coroner until the end of the term provided for in his or her deed of appointment or, in the case of a coroner whose deed of appointment does not specify when his or her term is to end, for a 5-year term from that date.

Section 5.2 of the Act respecting the determination of the causes and circumstances of death, enacted by section 2, applies, at the end of his or her term, to a coroner referred to in the first paragraph.

Section 5.3 of that Act, enacted by section 2, applies, at the end of his or her term, to a coroner referred to in the second paragraph.

48. A full-time coroner referred to in section 47 whose term is not renewed is entitled, on the conditions provided for in section 5 of the Règles concernant la rémunération et les autres conditions de travail des titulaires d’un emploi supérieur à temps plein, enacted by Order in Council 450-2007 (2007, G.O. 2, 2723, French only), to a transition allowance corresponding to one time his or her monthly salary for each year of uninterrupted service from his or her appointment as a permanent coroner without, however, exceeding 12 times that monthly salary.

49. The Chief Coroner and any Deputy Chief Coroner in office on the date of coming into force of section 5 continue their terms for the time and according to the conditions of employment set out in their deeds of appointment, except those relating to dismissal, suspension, reinstatement and renewal, as if they had been appointed in accordance with section 8 of the Act respecting the determination of the causes and circumstances of death, replaced by section 5.

The Chief Coroner or a Deputy Chief Coroner referred to in the first paragraph holds, from the date on which he or she ceases to serve his or her term, the office of full-time coroner for a term which may not, however, exceed 10 years from the date of coming into force of section 5. In such a case, he or she continues to receive the salary he or she received as Chief Coroner or Deputy Chief Coroner. Section 48 applies to such a full-time coroner whose term is not renewed.

50. The provisions of this Act come into force on the date or dates to be set by the Government.

