



NATIONAL ASSEMBLY OF QUÉBEC

FIRST SESSION

FORTY-SECOND LEGISLATURE

Bill 497

**An Act to amend the Charter of
human rights and freedoms in order
to strengthen the protection of
seniors' rights and create the office of
Seniors Ombudsperson**

Introduction

**Introduced by
Mr. Harold LeBel
Member for Rimouski**

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EXPLANATORY NOTES

This bill amends the Charter of human rights and freedoms in order to strengthen the protection granted to seniors.

To that end, the protection provided against the exploitation of seniors and handicapped people is extended to include protection against any form of maltreatment.

The bill creates the office of Seniors Ombudsperson, which is held by a vice-president of the Commission des droits de la personne et des droits de la jeunesse dedicated exclusively to promoting seniors' rights and respect for those rights. The bill also amends the composition of the Commission by increasing the number of its members. It provides that two of the Commission's members are to be chosen from among persons capable of making a notable contribution to the examination and resolution of problems relating to the protection of seniors' rights and adds one more vice-president position.

The bill also enshrines the confidential nature of information disclosed when a complaint is filed with the Commission. Consequently, it provides immunity from prosecution for anyone who files a complaint with the Commission in good faith and for anyone who cooperates in the examination of such a complaint.

Lastly, the bill prescribes sanctions for anyone who attempts to take or takes reprisals against a person, group or organization having an interest in the handling of a complaint filed with the Commission.

LEGISLATION AMENDED BY THIS BILL:

- Act respecting equal access to employment in public bodies (chapter A-2.01);
- Charter of human rights and freedoms (chapter C-12).

REGULATIONS AMENDED BY THIS BILL:

- Code of ethics of the members of the Human Rights Tribunal (chapter C-12, r. 1);
- Regulation respecting the handling of complaints and the procedure applicable to the investigations of the Commission des droits de la personne et des droits de la jeunesse (chapter C-12, r. 5).

Bill 497

AN ACT TO AMEND THE CHARTER OF HUMAN RIGHTS AND FREEDOMS IN ORDER TO STRENGTHEN THE PROTECTION OF SENIORS' RIGHTS AND CREATE THE OFFICE OF SENIORS OMBUDSPERSON

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHARTER OF HUMAN RIGHTS AND FREEDOMS

1. Section 48 of the Charter of human rights and freedoms (chapter C-12) is amended, in the first paragraph,

- (1) by replacing “aged person” by “senior”;
- (2) by inserting “or maltreatment” at the end.

2. Section 56 of the Charter is amended by adding the following subsection at the end:

“(4) In the Charter, the word “maltreatment” means a single or repeated act, or a lack of appropriate action, that intentionally or unintentionally causes harm or distress to a person. This includes all types of maltreatment, including psychological, physical, sexual, material, financial and organizational maltreatment.”

3. Section 57 of the Charter is amended by inserting “that the interests of seniors are protected,” after “in this Chapter are upheld,” in the second paragraph.

4. Section 58 of the Charter is amended, in the first paragraph,

- (1) by replacing “13” by “16”;
- (2) by replacing “two” by “three”.

5. Section 58.1 of the Charter is replaced by the following section:

“58.1. Seven members of the Commission shall be chosen from among persons capable of making a notable contribution to the examination and resolution of problems relating to human rights and freedoms, including two

capable of making a notable contribution more specifically to the examination and resolution of problems relating to the protection of seniors' rights, and five other members from among persons capable of making a notable contribution to the examination and resolution of problems relating to the protection of young persons' rights."

6. Section 65 of the Charter is amended by adding the following paragraph after the third paragraph:

"The president shall also designate a vice-president to hold the office of Seniors Ombudsperson who shall be responsible mainly for the functions assigned to the Commission regarding the promotion and protection of seniors' rights."

7. Section 67 of the Charter is amended

(1) by replacing "the other vice-president" by "one of the two other vice-presidents";

(2) by striking out the following sentence: "Otherwise, the Government shall designate another member of the commission and, if need be, shall fix the additional salary, fees or allowances of that other member."

8. Section 71 of the Charter is amended, in subparagraph 1 of the second paragraph,

(1) by inserting "or maltreatment" after "against exploitation";

(2) by replacing "aged" by "seniors".

9. Section 73 of the Charter is amended by replacing the first paragraph by the following paragraph:

"Not later than 30 June, the Commission shall submit to the President of the National Assembly a report on its activities for the preceding fiscal year together with its recommendations regarding the promotion and protection of human rights, the promotion and protection of seniors' rights, the promotion and protection of children's rights and the protection of children's interests."

10. Section 74 of the Charter is amended, in the third paragraph,

(1) by inserting "or maltreatment" after "exploitation";

(2) by replacing "aged persons" by "seniors".

11. The Charter is amended by inserting the following sections after section 74:

“74.1. The Commission must take all necessary measures to preserve the confidentiality of any information that would allow a person who has filed a complaint to be identified, unless the person consents to being identified. The Commission may however communicate the identity of that person to the police force concerned.

“74.2. No proceedings may be brought against a person who, in good faith, has filed a complaint or cooperated in the examination of a complaint, whatever the conclusions issued following its examination.”

12. Section 81 of the Charter is amended by replacing “a case of discrimination or exploitation” by “a case of discrimination, exploitation or maltreatment”.

13. Section 82 of the Charter is amended by replacing “a case of discrimination or exploitation” in the first paragraph by “a case of discrimination, exploitation or maltreatment”.

14. Section 86 of the Charter is amended by inserting “age,” after “on the basis of” in the third paragraph.

15. The Charter is amended by inserting the following sections after section 134:

“134.1. Whoever attempts to take or takes reprisals in contravention of paragraph 5 of section 134 is liable to a fine of \$2,000 to \$20,000 in the case of a natural person and \$10,000 to \$250,000 in all other cases.

For any subsequent offence, the amounts are doubled.

“134.2. Whoever, by an act or omission, helps a person to commit an offence under paragraph 5 of section 134 or, by encouragement, advice or consent or by an authorization or order, induces another person to commit such an offence is guilty of the same offence.”

ACT RESPECTING EQUAL ACCESS TO EMPLOYMENT IN PUBLIC BODIES

16. Section 1 of the Act respecting equal access to employment in public bodies (chapter A-2.01) is amended by inserting “seniors,” after “aboriginal peoples,”.

CODE OF ETHICS OF THE MEMBERS OF THE HUMAN RIGHTS
TRIBUNAL

17. The preamble to the Code of ethics of the members of the Human Rights Tribunal (chapter C-12, r. 1) is amended, in the first paragraph,

(1) by inserting “or maltreatment” after “exploitation”;

(2) by replacing “the elderly or handicapped” by “seniors or handicapped people”.

REGULATION RESPECTING THE HANDLING OF COMPLAINTS AND
THE PROCEDURE APPLICABLE TO THE INVESTIGATIONS OF THE
COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE
LA JEUNESSE

18. Section 4 of the Regulation respecting the handling of complaints and the procedure applicable to the investigations of the Commission des droits de la personne et des droits de la jeunesse (chapter C-12, r. 5) is amended

(1) by inserting “or maltreatment” after “the exploitation”;

(2) by replacing “aged” by “seniors”.

FINAL PROVISION

19. This Act comes into force on (*insert the date that is six months after the date of assent to this Act*).