



NATIONAL ASSEMBLY OF QUÉBEC

FIRST SESSION

FORTY-SECOND LEGISLATURE

Bill 55

An Act to amend the Civil Code, in particular to make civil actions for sexual aggression, violence suffered during childhood and spousal violence imprescriptible

Introduction

**Introduced by
Madam Sonia LeBel
Minister of Justice**

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EXPLANATORY NOTES

Under this bill, all actions for damages for bodily injury resulting from an act which could constitute a criminal offence are made imprescriptible if the injury results from a sexual aggression, violent behaviour suffered during childhood, or the violent behaviour of a spouse or former spouse.

The bill, however, provides that an action for damages for bodily injury resulting from an act which could constitute a criminal offence directed against an heir, a legatee by particular title or a successor of the author of the act or against the liquidator of the author's succession, must, under pain of forfeiture, be instituted within three years after the author's death, unless the defendant is sued for the defendant's own fault or as a principal. Likewise, an action brought for injury suffered by the victim must be instituted within three years after the victim's death.

The bill establishes certain rules concerning apologies, including that an apology may not constitute an admission.

Lastly, the bill contains transitional measures. In particular, it provides, for a period of three years, that an action which is thus imprescriptible and which was dismissed in the past solely on the grounds of prescription being acquired may be reinstated before a court.

LEGISLATION AMENDED BY THIS BILL:

- Civil Code of Québec.

Bill 55

AN ACT TO AMEND THE CIVIL CODE, IN PARTICULAR TO MAKE CIVIL ACTIONS FOR SEXUAL AGGRESSION, VIOLENCE SUFFERED DURING CHILDHOOD AND SPOUSAL VIOLENCE IMPRESCRIPTIBLE

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CIVIL CODE OF QUÉBEC

1. The Civil Code of Québec is amended by inserting the following article after article 2853:

“2853.1. An apology may not constitute an admission.

Furthermore, it may not be admitted into evidence, affect the determination of fault or liability, interrupt prescription or cancel or reduce the insurance coverage to which the insured or a third person is entitled.

In particular, any express or implied expression of sympathy or regret constitutes an apology.”

2. Article 2926.1 of the Code is amended

(1) by replacing “However, the prescriptive period is 30 years” in the first paragraph by “Nevertheless, such an action cannot be prescribed”;

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

“However, an action against an heir, a legatee by particular title or a successor of the author of the act or against the liquidator of the author’s succession must, under pain of forfeiture, be instituted within three years after the author’s death, unless the defendant is sued for the defendant’s own fault or as a principal. Likewise, an action brought for injury suffered by the victim must, under pain of forfeiture, be instituted within three years after the victim’s death.”

3. Article 2930 of the Code is amended by replacing “of less than 3 years, 10 years or 30 years, as the case may be, cannot affect a prescriptive period provided for in this Book” by “that is less than that provided for in this Book, cannot defeat a prescriptive period provided for in this Book”.

TRANSITIONAL AND FINAL PROVISIONS

4. Article 2926.1 of the Civil Code, amended by section 2, applies to all actions for damages for bodily injury resulting from an act which could constitute a criminal offence if the injury results from a sexual aggression, violent behaviour suffered during childhood, or the violent behaviour of a spouse or former spouse, regardless of any prescriptive period applicable before the coming into force of this Act.

5. An action that was dismissed before (*insert the date of coming into force of this Act*) solely on the grounds of prescription being acquired may be reinstated before a court within three years after that date if

(1) the action is an action for damages for bodily injury resulting from an act which could constitute a criminal offence;

(2) the injury results from a sexual aggression, violent behaviour suffered during childhood, or the violent behaviour of a spouse or former spouse; and

(3) the action is not prescribed under the second paragraph of article 2926.1 of the Civil Code, as amended by section 2, on the date on which it is reinstated.

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