

Bill 64

**An Act to promote access to justice in
family matters**

Section 2

AMENDMENT:

Replace by:

2. An application for recalculation may, in the cases described in a government regulation, be made to SARPA by one or both of the child's parents. The regulation also determines the application procedure and the information and documents needed for the recalculation that must be provided in support of the application.

The application may be withdrawn, in accordance with the procedure determined by government regulation, on the request of the parents or on the request of the parent who submitted it, so long as SARPA has not recalculated the child support.

Adopte
ED

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Section 5

AMENDMENT:

Insert "between the parties" after "if it is notified of a judicial demand" in the first paragraph.

Adopte
CB

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Section 8

AMENDMENT:

Replace by:

8. SARPA cannot recalculate child support if, after having examined the information and documents provided, it finds that the recalculation applied for requires a judicial assessment, unless there is an agreement between the parents in the cases and in accordance with the terms determined by government regulation.

If it cannot recalculate child support, SARPA notifies the parent who applied for the recalculation, or both parents where the application was submitted by the two of them. Where the application for recalculation was submitted by only one of the parents, SARPA also sends a copy of the notice to the other parent if it previously notified a request for information or documents to that parent under section 4.

Upon being notified that SARPA cannot recalculate the child support, the parent who applied for the recalculation or, where the application was submitted by both parents, one of them may apply in writing for a re-examination of the application. The application is re-examined by the chair of the Commission des services juridiques or by the person appointed by the chair for that purpose.

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Section 4

AMENDMENT:

Replace by:

4. If an application for recalculation is made by only one parent, SARPA may, as part of its examination, require the other parent to provide the information and documents needed for the recalculation that are determined by government regulation.

If the context so requires, SARPA notifies its request for information or documents to the parent by any means that provides proof of sending. The notification may be made by regular mail; in that case, the date of sending is the date on which the request is mailed.

4.1. If the parent fails to provide, within 30 days of the date of sending of the request referred to in the second paragraph of section 4, the information or documents that would allow SARPA to determine the parent's annual income, SARPA again notifies its request to the parent by registered or certified mail or by any other means that provides proof of the date of receipt of the request. If SARPA has such proof and the parent does not provide the information or documents within 10 days of the date of receipt of the request, the parent's annual income is determined, for the purposes of this Act, in accordance with the rules prescribed by government regulation.

If SARPA's request is notified, as provided for in the Code of Civil Procedure (R.S.Q., chapter C-25), by a bailiff who served it by leaving a copy intended for the parent on the premises, the parent is deemed to have received the request on the date indicated on the bailiff's certificate of service.

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Section 13

AMENDMENT:

Insert "between the parties" after "notified of a judicial demand" in the second paragraph.

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Sections 14.1 to 14.4

AMENDMENT:

Insert the following after section 14:

CHAPTER III.1

ELIGIBLE EXPENSES, EXEMPTIONS AND REIMBURSEMENTS

14.1. Any parent who makes an application for recalculation of child support must pay the fees set by regulation, in the proportion and according to the terms prescribed.

However, any parent who is financially eligible for legal aid under section 4.1 of the Act respecting legal aid and the provision of certain other legal services is exempted from the payment of those fees, subject to section 14.2. In addition, any parent who is financially eligible for contributory legal aid under section 4.2 of that Act is only required to pay fees up to the amount of the contribution that would otherwise be payable by the parent under that Act.

The Government may by regulation determine other cases in which a parent may be dispensed from the payment of those fees.

14.2. To be exempted from the payment of fees, a parent must obtain a certificate of financial eligibility issued by a regional legal aid centre or by the director of a designated legal aid centre. The certificate is issued in accordance with Divisions VI and VI.2 of Chapter II of the Act respecting legal aid and the provision of certain other legal services, with the necessary modifications.

14.3. If a parent is exempted from the payment of fees, the fees payable may be recovered under sections 73.1 to 73.6 of the Act respecting legal aid and the provision of certain other legal services, with the necessary modifications.

14.4. The Government may by regulation determine the cases in which and the extent to which the Commission des services juridiques may reimburse a fee paid by a parent.

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Section 15.1

AMENDMENT:

Insert the following after section 15:

15.1. The members of the personnel of SARPA and the employees of a regional legal aid centre performing SARPA-related duties may not be prosecuted by reason of acts performed in good faith in the performance of their duties.

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Section 17

AMENDMENT:

Insert "which do not allow a person to be identified" after "any statistics, reports or other information".

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CUB

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Section 18

AMENDMENT:

Strike out Chapter V.

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Section 33

AMENDMENT:

Replace the last paragraph of proposed section 62 by:

A person who is financially eligible for contributory legal aid must pay, for the examination of his or her application, a fee set by regulation, unless the person is granted legal aid for the legal services described in paragraph 1.1 of section 4.7.

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AM 11 has been withdrawn and renamed AM e.

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Sections 41.1, 41.2, 41.3

AMENDMENT:

Insert the following after section 41:

41.1. Article 814.3 of the Code is amended by inserting “or, if applicable, a certificate of participation” after “a copy of the mediator’s report”.

41.2. Article 814.6 of the Code is amended by replacing the last sentence of the last paragraph by the following sentence: “At the end of the session, the Service gives a certificate of participation to each of the parties present.”

41.3. Article 814.13 of the Code is amended by inserting “or the certificate of participation in a group information session” after “The mediator’s report”.

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Section 42.1

AMENDMENT:

Insert after section 42:

ACT RESPECTING THE MINISTÈRE DE LA JUSTICE

42.1. Section 32.0.3 of the Act respecting the Ministère de la Justice (R.S.Q., chapter M-19) is amended by inserting the following paragraph after paragraph 2:

“(2.1) the amount of the fines paid under sections 19 to 21 of the Act to promote access to justice in family matters (*insert the year and chapter number of this Act*);”.

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Section 27

AMENDMENT:

Replace proposed paragraph 1.1 introduced to section 4.7 by paragraph 2 by:

“(1.1) to provide parties with the professional services of an advocate for the purpose of obtaining a judgment on an agreement, submitted in a joint application for the review of a judgment, which settles all matters relating to child custody or all matters relating to either child support alone or child and spousal support;”.

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Section 36

AMENDMENT:

Strike out subparagraph *a.10* proposed by paragraph 1.

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Section 38

AMENDMENT:

Replace by:

38. Article 595 of the Code is replaced by the following article :

“**595.** Child support may be claimed for needs that existed before the application; however, child support cannot be claimed for needs that existed more than three years before the application, unless the debtor parent behaved in a reprehensible manner toward the other parent or the child.

If the support is not claimed for a child, it may nevertheless be claimed for needs that existed before the application, but not for needs that existed more than one year before the application; the creditor must prove that it was in fact impossible to act sooner, unless a formal demand was made to the debtor within one year before the application, in which case support is awarded from the date of the demand.”

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Section 43.1

AMENDMENT:

Insert after section 43:

PUBLIC PROTECTOR ACT

43.1. Section 15 of the Public Protector Act (R.S.Q., chapter P-32) is amended by adding the following paragraph after paragraph 8:

“(9) SARPA, established under the Act to promote access to justice in family matters (*insert the year and chapter number of this Act*).”

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Section 45.1

AMENDMENT:

Insert after section 45:

45.1. This Act may be cited as the Act to promote access to justice through the establishment of the Service administratif de rajustement des pensions alimentaires pour enfants.

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Section 46

AMENDMENT:

Replace by:

46. The provisions of this Act come into force on the date or dates set by the Government, except sections 38, 39, 43 and 45, which come into force on (*insert the date of assent to this Act*).

Adopte
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Section 9

AMENDMENT:

Replace by:

9. SARPA recalculates child support in accordance with the rules for the determination of child support prescribed under the Code of Civil Procedure (R.S.Q., chapter C-25) and in accordance with the terms prescribed by government regulation.

The child support is recalculated as of the date of the application for recalculation, taking into account the changes in the income of either parent that was used to determine the support being recalculated. However, if the income increased before the date of the application, SARPA recalculates the child support as of a date not earlier than one year prior to the date of the application; regardless of the number of increases, the child support is recalculated for each period in which the income increased, only taking into account the increase relating to that period.

Adopte
CG