



NATIONAL ASSEMBLY

FIRST SESSION

FORTIETH LEGISLATURE

Bill 399

**An Act to eliminate maltreatment of
vulnerable persons lodged in the health
and social services network**

Introduction

**Introduced by
Madam Marguerite Blais
Member for Saint-Henri–Sainte-Anne**

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EXPLANATORY NOTES

The purpose of this bill is to protect certain vulnerable persons from maltreatment. It enacts rules to ensure that vulnerable persons lodged in institutions receive care, health services and social services without suffering any form of maltreatment.

Both public and private institutions are required to adopt and implement a vulnerable persons protection plan. The plan must include prevention measures aimed at ending all forms of maltreatment, describe the actions to be taken when maltreatment of a vulnerable person is observed, and specify the follow-up that is required whenever maltreatment is reported or a complaint about maltreatment is filed.

The bill also includes penal and miscellaneous provisions.

Bill 399

AN ACT TO ELIMINATE MALTREATMENT OF VULNERABLE PERSONS LODGED IN THE HEALTH AND SOCIAL SERVICES NETWORK

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

PURPOSE, APPLICATION AND INTERPRETATION

1. The purpose of this Act is to protect certain vulnerable persons from maltreatment. To that end, it establishes rules applicable to all institutions that lodge vulnerable persons or provide such persons with care, health services or social services.

2. For the purposes of this Act, an institution is a public or private institution, an intermediate resource, a family-type resource, a private seniors' residence or a resource offering lodging to vulnerable clientele under the Act respecting health services and social services (chapter S-4.2) or the Act respecting health services and social services for Cree Native persons (chapter S-5).

A body that provides services to such institutions or their users is also considered an institution.

An institution's personnel includes all employees, trainees and volunteers.

3. For the purposes of this Act, a vulnerable person is a person aged 18 or over who is in a situation of dependency or whose ability to request or obtain assistance is limited because of such factors as a physical restraint, an illness, an injury or a handicap.

4. For the purposes of this Act, maltreatment means an act, a deliberate behaviour or a failure to act on the part of a person in a position of trust that causes or could cause physical, sexual, psychological or economic harm to a vulnerable person.

CHAPTER II

VULNERABLE PERSONS PROTECTION PLAN

DIVISION I

RESPONSIBILITIES OF THE INSTITUTION

5. The board of directors of an institution or, if there is no board, the highest authority of the institution, must designate a person, other than the executive director or the local service quality and complaints commissioner, to be responsible for protecting vulnerable persons from maltreatment (vulnerable persons protection officer).

This person is in charge of implementing the vulnerable persons protection plan adopted under section 6.

6. An institution must adopt a vulnerable persons protection plan. The purpose of the plan is to prevent and end all forms of maltreatment inflicted on vulnerable persons by any professional or personnel member of the institution. In addition to any elements the Minister may prescribe by regulation, the plan must include

(1) the name and contact information of the vulnerable persons protection officer;

(2) an analysis of the situation prevailing at the institution with respect to maltreatment, which includes all forms of discrimination, abuse and neglect;

(3) prevention measures aimed at ending all forms of maltreatment;

(4) the actions to be taken when maltreatment is observed or reported;

(5) procedures for reporting maltreatment or filing a complaint about maltreatment;

(6) measures to protect the confidentiality of any report of or complaint about maltreatment;

(7) support or supervisory measures for vulnerable persons who are victims of maltreatment;

(8) disciplinary sanctions for maltreatment according to the severity or repetitive nature of the act or failure to act; and

(9) the required follow-up on any report of or complaint about maltreatment.

A document explaining the plan must be distributed to users. The institution must see to it that the wording of the document is clear and accessible.

The board of directors of the institution or, if there is no board, the highest authority of the institution, and the Agence de la santé et des services sociaux, approve the plan proposed by the vulnerable persons protection officer. The plan is reviewed every five years and updated if necessary.

7. The vulnerable persons protection officer must see to it that all professionals and personnel members are informed of the prevention measures established to protect vulnerable persons and of the procedure to be followed when maltreatment is observed.

All professionals and personnel members of the institution must collaborate in implementing the vulnerable persons protection plan and must undertake to conduct themselves in a manner that is free of any form of maltreatment.

DIVISION II

REPORTS AND COMPLAINTS

8. All professionals and personnel members of an institution who have reasonable grounds to believe that a vulnerable person lodged or receiving care, health services or social services in the institution has been or is being maltreated must report the situation immediately to the vulnerable persons protection officer.

The obligation to report is incumbent even on those bound by professional secrecy, except lawyers.

9. The vulnerable persons protection officer must file a complaint with the Commission des droits de la personne et des droits de la jeunesse whenever a report is made about discrimination, harassment or exploitation within the meaning of the Charter of human rights and freedoms (chapter C-12) with regard to a vulnerable person.

10. Despite the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1) and the Act respecting the protection of personal information in the private sector (chapter P-39.1), a person must not disclose or be compelled to disclose the identity of a person who makes a report under this Act.

11. A person may not be prosecuted for acts performed in good faith under section 8 or 9.

12. Employers and their agents may not dismiss, suspend, transfer or retire an employee, or discriminate or take reprisals against or impose any other sanction on an employee, on the grounds that the employee performed an act under section 8 or 9.

13. An institution must send the Minister, not later than 1 April of each year, a report stating the nature of the reports of and complaints about

maltreatment that were brought to its attention and the measures taken, without disclosing the identity of any person who made a report or filed a complaint.

CHAPTER III

PENAL PROVISIONS

14. A person who, by an act or omission, contravenes section 7 by failing to collaborate in the implementation of the measures put in place by the institution is guilty of an offence and liable to a fine of \$1,000 to \$10,000 for a first offence and \$2,000 to \$20,000 for a second or subsequent offence.

15. A person who knowingly contravenes section 8 or 9 by failing to report maltreatment or by hindering a report from being made to the vulnerable persons protection officer or a complaint from being filed with the Commission des droits de la personne et des droits de la jeunesse is guilty of an offence and liable to a fine of \$200 to \$1,000 for a first offence and \$500 to \$2,500 for a second or subsequent offence.

16. An institution that contravenes section 5, 6, 10, 12 or 13 by failing to designate a vulnerable persons protection officer, by failing to adopt a vulnerable persons protection plan or by failing to ensure the well-being of vulnerable persons is guilty of an offence and liable to a fine of \$500 to \$2,500 for a first offence and \$1,000 to \$10,000 for a second or subsequent offence.

17. A person who, by an act or omission, assists another person in committing an offence under this Act or who, by encouragement, advice or consent or by an authorization or an order, induces another person to commit such an offence is guilty of the same offence.

CHAPTER IV

MISCELLANEOUS PROVISIONS

18. An institution must adopt its vulnerable persons protection plan and submit it to the Minister not later than 31 December 2014.

19. The Minister of Health and Social Services is responsible for the administration of this Act.

20. The Minister must, not later than 1 January 2019 and every five years after that, report on the carrying out of this Act and the advisability of amending it.

The report is submitted to the President of the National Assembly, who tables it in the National Assembly within 15 days of receipt or, if the Assembly is not sitting, within 15 days of resumption. The competent committee of the National Assembly subsequently examines the report.

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

