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# NATIONAL ASSEMBLY

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FIRST SESSION

FORTY-FIRST LEGISLATURE

Bill 797

**An Act to amend the Civil Code in order  
to recognize the bond of filiation of a de  
facto spouse who died before the birth of  
a child**

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**Introduction**

**Introduced by  
Mr. Simon Jolin-Barrette  
Member for Borduas**

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## **EXPLANATORY NOTES**

*This bill amends the rules governing the declaration of filiation to allow a surviving de facto spouse to declare the filiation of a child with regard to a de facto spouse who died before the child was born.*

*The rules for establishing filiation set out in the Civil Code of Québec are also amended. The presumption of paternity provided for in the Civil Code of Québec is broadened to include a child born within 300 days after the end of a de facto union where a de facto spouse died before the birth.*

*In addition, if a child is born of a parental project involving assisted procreation between de facto spouses within 300 days after the end of the de facto union and the former de facto spouse of the woman who gave birth to the child died before the birth, that spouse is presumed to be the child's other parent.*

## **LEGISLATION AMENDED BY THIS BILL:**

- Civil Code of Québec.

## Bill 797

### AN ACT TO AMEND THE CIVIL CODE IN ORDER TO RECOGNIZE THE BOND OF FILIATION OF A DE FACTO SPOUSE WHO DIED BEFORE THE BIRTH OF A CHILD

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

**1.** Article 114 of the Civil Code of Québec is amended by inserting the following paragraph after the first paragraph:

“Similarly, where a child is conceived during a *de facto* union and one of the *de facto* spouses dies before the birth of the child, the surviving spouse may declare the filiation of the child with regard to the deceased spouse.”

**2.** Article 525 of the Code is amended by replacing “subsequent marriage or civil union” in the third paragraph by “subsequent marriage, civil union or *de facto* union”.

**3.** The Code is amended by inserting the following article after article 525:

**“525.1.** If a child is born within 300 days after the end of a *de facto* union between persons of opposite sex and the former *de facto* spouse of the child’s mother died before the birth, that spouse is presumed to be the child’s father.

The presumption is rebutted as regards the former *de facto* spouse if the child is born within 300 days of the end of the *de facto* union, but after a subsequent marriage, civil union or *de facto* union of the child’s mother.”

**4.** Article 535 of the Code is amended by replacing “the husband or civil union spouse” in the second paragraph by “the husband, the civil union spouse or the *de facto* spouse who died before the birth of a child”.

**5.** The Code is amended by inserting the following article after article 538.3:

**“538.4.** If a child is born of a parental project involving assisted procreation between *de facto* spouses within 300 days after the end of the *de facto* union and the former *de facto* spouse of the woman who gave birth to the child died before the birth, that spouse is presumed to be the child’s other parent.

The presumption is rebutted as regards the former *de facto* spouse if the child is born within 300 days of the end of the *de facto* union, but after a

subsequent marriage, civil union or *de facto* union of the woman who gave birth to the child.”

**6.** This Act applies to children born on or after the date of its coming into force.

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