



NATIONAL ASSEMBLY

FIRST SESSION

FORTY-FIRST LEGISLATURE

Bill 890

**An Act to ensure sound administration
of justice in order to maintain public
confidence in the justice system**

Introduction

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

**Québec Official Publisher
2017**

EXPLANATORY NOTES

This bill enacts provisions to ensure sound administration of criminal and penal justice in order to maintain public confidence in the justice system.

To do so, the Courts of Justice Act is amended to provide the justice system with the resources required to ensure efficient processing and effective management of criminal and penal proceedings.

The bill also amends the Act to provide for the right to be tried within a reasonable time in criminal or penal proceedings and, for the next year, prescribes how to determine the reasonableness of the time elapsed since charges were laid in proceedings before the Court of Québec or the Superior Court.

Provision is made for the right to be tried within a reasonable time to apply notwithstanding the provisions of paragraph b of section 11 of the Constitution Act, 1982 and those of section 32.1 of the Charter of human rights and freedoms.

Lastly, the bill amends the Act respecting the Director of Criminal and Penal Prosecutions to require the accused's right to be tried within a reasonable time to be covered by the guidelines developed and measures implemented by the Minister of Justice concerning the general conduct of criminal and penal proceedings. The Director of Criminal and Penal Prosecutions must take the measures needed to ensure the promptness and efficiency of judicial proceedings to which he or she is party, in particular by taking into account the legitimate interests of crime victims and their close relations.

LEGISLATION AMENDED BY THIS BILL:

- Act respecting the Director of Criminal and Penal Prosecutions (chapter D-9.1.1);
- Courts of Justice Act (chapter T-16).

Bill 890

AN ACT TO ENSURE SOUND ADMINISTRATION OF JUSTICE IN ORDER TO MAINTAIN PUBLIC CONFIDENCE IN THE JUSTICE SYSTEM

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

COURTS OF JUSTICE ACT

1. The Courts of Justice Act (chapter T-16) is amended by inserting the following subdivision after section 78:

“§5.—*Sound administration of justice*

“**78.1.** The justice system must be given the resources required to ensure efficient processing and effective management of criminal and penal proceedings.

“**78.2.** To guarantee sound administration of justice in order to maintain public confidence in the justice system, every accused has the right to be tried within a reasonable time.

The burden is on the accused to establish that his or her right to be tried within a reasonable time was infringed, regardless of the date charges were laid or the time elapsed since charges were laid.

To determine whether a delay is reasonable, the following factors must be taken into consideration:

- (1) the length of the delay, that is, the time elapsed since the day charges were laid;
- (2) the clear and unequivocal waiver of any time periods by the accused;
- (3) the reasons for the delay, including
 - (a) the time requirements for the case, based on its complexity and the offence in question;
 - (b) the actions of the accused;
 - (c) the actions of the prosecution;
 - (d) limitations on institutional resources; and

(e) other reasons for the delay; and

(4) prejudice to the accused's interests in liberty, security of the person and a fair trial.

“78.3. Sections 78.2 and 148 have effect notwithstanding the provisions of paragraph *b* of section 11 of the Constitution Act, 1982 (Schedule B to the Canada Act, chapter 11 in the 1982 volume of the Acts of the Parliament of the United Kingdom).

Sections 78.2 and 148 apply notwithstanding section 32.1 of the Charter of human rights and freedoms (chapter C-12).

“78.4. Sections 78.2 and 78.3 have effect for one year from (*insert the date of coming into force of this Act*).”

2. The Act is amended by inserting the following subdivision after section 147:

“§4.—Sound administration of justice

“148. Subdivision 5 of Division II of Part II applies in criminal or penal proceedings before the Court of Québec.”

ACT RESPECTING THE DIRECTOR OF CRIMINAL AND PENAL PROSECUTIONS

3. The Act respecting the Director of Criminal and Penal Prosecutions (chapter D-9.1.1) is amended by inserting the following section after section 18:

“18.1. The Director must take the measures needed to ensure the promptness and efficiency of judicial proceedings to which the Director is party, in particular by taking into account the legitimate interests of crime victims and their close relations.”

4. Section 22 of the Act is amended by inserting “that the accused's right to be tried within a reasonable time is respected,” after “that witnesses are respected and protected,” in the first paragraph.

FINAL PROVISION

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