



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SIXTH LEGISLATURE

Bill 26

**An Act to amend the Act respecting
childcare centres and childcare
services**

Introduction

**Introduced by
Madam Nicole Léger
Minister for Child and Family Welfare**

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EXPLANATORY NOTES

This bill amends the Act respecting childcare centres and childcare services so that not only the children of a home childcare provider and those of the adult assisting the home childcare provider will be taken into account but also the children who ordinarily live with either of them. Access to the reduced-contribution childcare program is given, with certain restrictions, to the children of home childcare providers and assisting adults if the children are provided home childcare.

The bill specifies that the holder of a childcare centre permit has the power to suspend or withdraw the recognition of a home childcare provider. As well, any home childcare provider whose recognition is suspended or withdrawn is granted the right to contest the decision before the Administrative Tribunal of Québec.

The Minister is given the power, in exceptional cases and where warranted in the public interest, to authorize a departure from certain standards established under the Act or the regulations, subject to the conditions determined by the Minister. The Minister is also authorized to establish pilot projects subject to certain conditions.

Finally, the bill contains a number of consequential amendments and transitional provisions.

LEGISLATION AMENDED BY THIS BILL :

- Act respecting childcare centres and childcare services (R.S.Q., chapter S-4.1);
- Act respecting the Ministère de la Famille et de l'Enfance and amending the Act respecting child day care (1997, chapter 58).

Bill 26

AN ACT TO AMEND THE ACT RESPECTING CHILDCARE CENTRES AND CHILDCARE SERVICES

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. Section 1 of the Act respecting childcare centres and childcare services (R.S.Q., chapter S-4.1), amended by section 59 of chapter 58 of the statutes of 1997, is again amended

(1) by inserting “and the children under nine years of age who ordinarily live with the person” after “the person’s children under nine years of age” in the first and second lines of paragraph 1 of the definition of “home childcare”;

(2) by replacing “under nine years of age including the children of both” in the first and second lines of paragraph 2 of the definition of “home childcare” by “including their children under nine years of age and the children under nine years of age who ordinarily live with either of them”.

2. Section 3 of the said Act, replaced by section 65 of chapter 58 of the statutes of 1997, is amended by replacing “any child of any assisting person if they are under nine years of age must be” in the third paragraph by “those of any assisting adult as well as the children who ordinarily live with either of them must, if they are under nine years of age, be”.

3. Section 8 of the said Act, amended by section 72 of chapter 58 of the statutes of 1997, is again amended

(1) by inserting “and the children under nine years of age who ordinarily live with the person” after “the person’s children under nine years of age” in the first and second lines of subparagraph 1 of the first paragraph;

(2) by replacing “the children under nine years of age of both” in the second line of subparagraph 2 of the first paragraph by “their children under nine years of age and the children under nine years of age who ordinarily live with either of them”;

(3) by replacing “any child of the assisting adult if they are under nine years of age” in the seventh and eight lines of the second paragraph by “those of the assisting adult and the children who ordinarily live with either of them if they are under nine years of age”.

4. Section 9 of the said Act, replaced by section 73 of chapter 58 of the statutes of 1997, is amended by inserting “, including suspension or withdrawal of recognition,” after “measures” in the first line of paragraph 6.

5. Section 39 of the said Act, replaced by section 109 of chapter 58 of the statutes of 1997, is amended by replacing the fourth paragraph by the following paragraph :

“However, a place referred to in the preceding paragraph cannot be granted in a home childcare operation in respect of any child of, or any child who ordinarily lives with, the home childcare provider or a home childcare provider referred to in the last paragraph of section 8; the same applies in respect of any child of, or any child who ordinarily lives with, the adult assisting the home childcare provider where the home childcare is provided at the child’s residence.”

6. Section 42 of the said Act, amended by section 719 of chapter 43 and section 134 of chapter 58 of the statutes of 1997, is replaced by the following section :

“42. Any applicant whose application for a permit is refused, any permit holder whose permit is suspended, revoked or not renewed or any home childcare provider whose recognition is suspended or withdrawn by the holder of a childcare centre permit having recognized the home childcare provider may, within 60 days of notification of the decision of the Minister or the holder of a childcare centre permit, as the case may be, contest the decision before the Administrative Tribunal of Québec.”

7. Section 73 of the said Act, amended by section 122 of chapter 58 of the statutes of 1997, is again amended

(1) by inserting “, including suspension and withdrawal of recognition,” after “measures” in the first line of paragraph 13.1;

(2) by replacing “74.10” in the third line of paragraph 24 by “74.9”.

8. Section 73.1 of the said Act is replaced by the following :

“CHAPTER IV.1

“DEPARTURE

“73.1. In an exceptional case and where the Minister considers it warranted in the public interest, the Minister may authorize the application of a measure that departs from a standard established by this Act or the regulations other than a standard established under any of paragraphs 13, 13.1, 14, 15 and 18 to 24 of section 73.

However, before the Minister may authorize the application of a measure that departs from a standard established under paragraph 2, 6, 6.1, 10.2, 16.1 or 17 of section 73, the applicant or the permit holder must prove to the Minister that the proposed measure is appropriate and would, to the same degree, protect the health, ensure the safety and foster the development and well-being of the children.

“CHAPTER IV.2

“PILOT PROJECTS

“73.2. The Minister may establish pilot projects for the purpose of experimenting or innovating in the field of childcare or of studying, improving or developing childcare standards; the Minister may authorize a person or organization to provide childcare within such pilot projects according to standards that are different from those established by this Act and the regulations.

Pilot projects shall be established for a maximum duration of one year and may, if the Minister considers it necessary, be extended for a maximum of six months.

The Minister shall issue directives establishing the standards applicable to pilot projects. The Minister may, at any time, make changes to or terminate a pilot project after advising the authorized person or organization.”

9. Section 159 of the Act respecting the Ministère de la Famille et de l’Enfance and amending the Act respecting child day care (1997, chapter 58) is amended by replacing “1999” in the fifth line by “2000”.

10. A person recognized by the holder of a childcare centre permit as a home childcare provider who, on (*insert here the date preceding the date of coming into force of this Act*), provides home childcare to a child who is not the person’s child but ordinarily lives with the person or a child who is not the child of the adult assisting the home childcare provider but ordinarily lives with the assisting adult has until (*insert here the date preceding the date occurring six months after the date of coming into force of this Act*) to comply with sections 1, 3 and 8 of the Act respecting childcare centres and childcare services, as amended by sections 1 to 3 of this Act.

The first paragraph also applies to a natural person who on (*insert here the date preceding the date of coming into force of this Act*) provides childcare for a consideration in a private residence to a child who is not the person’s child but ordinarily lives with the person or to a child who is not the child of the adult assisting the person but ordinarily lives with the assisting adult.

11. In a home childcare operation, any place referred to in section 39 of the Act respecting childcare centres and childcare services that gives entitlement to a grant and which, on (*insert here the date preceding the date of coming*

into force of this Act), is occupied by a child who ordinarily lives with the person recognized by the holder of a childcare centre permit as a home childcare provider or with the adult assisting such person but is not the child of either, may continue to be occupied by that child until *(insert here the date occurring six months after the coming into force of this Act)*.

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