



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SIXTH LEGISLATURE

Bill 37

An Act to amend the Code of Penal Procedure

Introduction

**Introduced by
Madam Linda Goupil
Minister of Justice**

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EXPLANATORY NOTES

This bill amends the Code of Penal Procedure to introduce a new warrant, the warrant of entry, which will be mandatory for the execution of a warrant of committal against a person in the person's dwelling or in the dwelling of a third person.

In addition, the bill clarifies the notion of written proceeding in certain provisions of the code, facilitates the signature of statements of offence by persons authorized by the Attorney General to act on his behalf and provides that a writ of seizure that is not executed within five years after its issue becomes null.

Finally, the bill provides that the sums due under Chapter XIII of the Code of Penal Procedure will be recovered by way of allocation pursuant to the Act respecting the Ministère du Revenu or by way of compensation pursuant to the Financial Administration Act.

Bill 37

AN ACT TO AMEND THE CODE OF PENAL PROCEDURE

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. Article 62.2 of the Code of Penal Procedure (R.S.Q., chapter C-25.1), enacted by section 6 of chapter 51 of the statutes of 1995, is amended by replacing the second paragraph by the following paragraph :

“The same applies to any proceeding drawn up electronically, digitized or converted to hard copy by the prosecutor, a government department or body or the office of the court that the prosecutor wishes to produce as evidence in such form or that may be required in such form for the purposes of this Code.”

2. Article 62.3 of the said Code, enacted by section 6 of chapter 51 of the statutes of 1995, is replaced by the following article :

“62.3. Where the prosecutor produces as evidence a document in electronic or hard copy form, be it a statement of offence, another proceeding or an offence report, the prosecutor is not required to prove the integrity or reliability of the document unless the defendant establishes, by a preponderance of evidence, that the document was modified after its electronic generation or upon its conversion into hard copy.

The integrity and reliability of such a document in electronic form or a hard copy thereof is presumed in the absence of any evidence to the contrary, and such a document may be admitted in evidence in either form if it is otherwise admissible in evidence.”

3. Article 62.4 of the said Code, enacted by section 6 of chapter 51 of the statutes of 1995, is amended by replacing “a” before “proceeding of the execution” by “an offence report, a statement of offence or another”.

4. Article 68.1 of the said Code, enacted by section 11 of chapter 51 of the statutes of 1995, is amended

(1) by replacing “a proceeding” in the first line of the first paragraph by “ a statement of offence, another proceeding or an offence report” ;

(2) by replacing “the proceeding that has been duplicated” in the last line of the first paragraph by “the document that has been duplicated or converted into hard copy”.

5. Article 70.1 of the said Code is amended by inserting “or any person authorized by the Attorney General” after “prosecutor” in the first line.

6. The said Code is amended by inserting the following article after article 321 :

“321.1. The sums due from a defendant may, in addition, be recovered by way of allocation pursuant to section 31 of the Act respecting the Ministère du Revenu (chapter M-31) or by way of compensation pursuant to section 13.1 of the Financial Administration Act (chapter A-6).”

7. Article 331 of the said Code is amended by adding the following paragraph after the second paragraph :

“A writ of seizure that is not executed within five years of its issue is null.”

8. The said Code is amended by inserting the following articles after article 353 :

“353.1. An arrest in a dwelling made under a warrant of committal must be authorized by a warrant of entry issued by a judge, except where the person flees to evade arrest, where entry is made with the consent of the person in charge of the premises or where there is no reasonable expectation of privacy. Such an arrest may be authorized by a telewarrant where the circumstances, such as the time or distance that would be involved in obtaining a warrant, are likely to make the arrest impossible.

“353.2. The application for a warrant or telewarrant of entry may be made either by the person applying or having applied for the warrant of committal or by the person charged with executing the warrant of committal.

A warrant of entry may be issued at any time by the judge who issues or issued the warrant of committal or by a judge having jurisdiction in that judicial district or in the judicial district where the dwelling is situated. A telewarrant of entry may be issued at any time by judges and in districts designated by the chief judge of the Court of Québec.

“353.3. No warrant or telewarrant of entry may be issued unless the judge is satisfied that it is necessary to make the arrest in the dwelling specified in the warrant or telewarrant and that the applicant has grounds to believe that the person to be arrested is in that dwelling or will in all likelihood be in that dwelling at the time the arrest is to be made. In the case of a telewarrant, the judge must also be satisfied that circumstances make it impossible for the person to apply for a warrant.

“353.4. The warrant or telewarrant of entry must state the name of the person to be arrested, identify the dwelling where the arrest may be made and indicate, by name or in general terms, who may enter the dwelling to make the arrest. It must indicate also that it may not be executed unless the person

charged with executing the warrant of committal has reasonable grounds to believe, before entering the dwelling, that the person to be arrested is in that dwelling. It must be numbered and refer to the warrant of committal to be executed.

Sections 99 to 101 and 106 apply, with the necessary modifications, to the issuance and execution of a warrant or telewarrant of entry.”

9. Article 354 of the said Code is amended

(1) by inserting “and, where applicable, under a warrant or telewarrant of entry,” after “warrant of committal” in the first paragraph ;

(2) by inserting, after subparagraph 3 of the first paragraph, the following subparagraph :

“(3.1) allow the person to be arrested in a dwelling and, where applicable, the person in charge of the premises, to examine the warrant or telewarrant of entry.”

10. Article 367 of the said Code is amended

(1) by inserting “offence reports, statements of offence and other” after “reliability of” in the first line of paragraph 1.1 ;

(2) by replacing “proceeding” in the fourth line of paragraph 1.1 by “document” ;

(3) by replacing “proceeding” in the fifth line of paragraph 1.1 by “document” ;

(4) by replacing “proceeding” in subparagraphs *a, b, c, d, e, f* and *g* of paragraph 1.1 by “document” ;

(5) by inserting, after subparagraph *f* of paragraph 1.1, the following subparagraph :

“(f.1) the electronic process for serving a document and the procedure for service by means of such process ;” ;

(6) by replacing “proceeding” in subparagraph *h* of paragraph 1.1 by “document”.

11. The provisions of this Act come into force on the date or dates to be fixed by the Government.