



NATIONAL ASSEMBLY OF QUÉBEC

FIRST SESSION

FORTY-SECOND LEGISLATURE

Bill 75

**An Act to improve justice accessibility
and efficiency, in particular to address
consequences of the COVID-19
pandemic**

Introduction

**Introduced by
Mr. Simon Jolin-Barrette
Minister of Justice**

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EXPLANATORY NOTES

This bill amends the Code of Civil Procedure, in particular to

(1) allow a judge to order special case management on the grounds of a case's complexity, to reject, on the judge's initiative, a prescribed application in small claims matters and to rule on applications on reading the record;

(2) specify the obligations of the party that revokes its lawyer's mandate;

(3) allow the Minister of Justice rather than the Government to establish the standards for determining child support;

(4) establish rules for calculating time limits, such as the time limits applicable to filing exhibits with the court office in small claims matters; and

(5) prescribe that, in matters regarding authorization for care or for the alienation of a body part and in matters regarding confinement in institution, hearings of the court are held in camera and access to the court records is restricted.

The bill also amends other legislative provisions to promote the use of technological means by the courts.

The bill provides that persons who perform work or render a service to the community under alternative measures or as part of an adaptation program are considered to be workers employed by the Government within the meaning of the Act respecting industrial accidents and occupational diseases.

The bill proposes that law students may give legal advice and consultations on legal matters in a university legal clinic or in a legal clinic of a professional training school established under the Act respecting the Barreau du Québec.

The bill amends the Code of Penal Procedure, in particular to provide that a court or judge does not lose jurisdiction in respect of an offence or in respect of a defendant because certain requirements for adjournment or postponement were not complied with.

The bill allows the allotment of the proceeds of the sale of property seized in connection with an offence under the Cannabis Act between certain government departments, bodies and organizations.

The bill amends certain procedures provided in the Act respecting payment of certain witnesses and the Jurors Act and allows a judge to delegate to a sheriff certain powers in relation to the attendance of jurors in court.

Lastly, the bill contains transitional and final provisions.

LEGISLATION AMENDED BY THIS BILL:

- Act respecting industrial accidents and occupational diseases (chapter A-3.001);
- Act respecting the Barreau du Québec (chapter B-1);
- Code of Civil Procedure (chapter C-25.01);
- Code of Penal Procedure (chapter C-25.1);
- Act respecting the forfeiture, administration and appropriation of proceeds and instruments of unlawful activity (chapter C-52.2);
- Jurors Act (chapter J-2);
- Notaries Act (chapter N-3);
- Act respecting payment of certain witnesses (chapter P-2.1);
- Youth Protection Act (chapter P-34.1);
- Courts of Justice Act (chapter T-16).

Bill 75

AN ACT TO IMPROVE JUSTICE ACCESSIBILITY AND EFFICIENCY, IN PARTICULAR TO ADDRESS CONSEQUENCES OF THE COVID-19 PANDEMIC

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

1. Section 11 of the Act respecting industrial accidents and occupational diseases (chapter A-3.001) is amended

(1) by replacing “subsection 3, carrying on compensatory work” in paragraph 1 by “paragraph 3, carrying on compensatory work, performing work or rendering a service to the community as part of an adaptation program”;

(2) by inserting the following paragraph after paragraph 2:

“(2.1) a person who performs work or renders a service to the community under alternative measures taken pursuant to the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46);”.

ACT RESPECTING THE BARREAU DU QUÉBEC

2. Section 128 of the Act respecting the Barreau du Québec (chapter B-1) is amended by replacing “The” in the introductory clause of subsection 1 by “Subject to sections 128.1 and 129, the”.

3. The Act is amended by inserting the following section after section 128:

“128.1. A student may give legal advice and consultations on legal matters for others if the student complies with the following conditions:

(1) the student is enrolled in a program of study whose diploma gives access to the permit issued by the Bar or in a professional training program given by a professional training school established pursuant to paragraph *b* of subsection 2 of section 15;

(2) the student performs those acts in a legal clinic of an educational institution at the university level that grants a diploma giving access to the permit issued by the Bar or of a professional training school referred to in subparagraph 1; and

(3) the student performs those acts under the close supervision and responsibility of a practising advocate.

The board of directors must determine, by by-law, from among the regulatory standards applicable to advocates, those standards applicable to students as well as the terms and conditions that apply to the advocates supervising them. The by-law may also prescribe additional terms and conditions according to which students may perform such acts.

The board of directors must consult the Ordre des notaires du Québec before adopting a by-law under the second paragraph.”

CODE OF CIVIL PROCEDURE

4. Article 14 of the Code of Civil Procedure (chapter C-25.01) is amended

(1) by replacing “; they may not, however, broadcast the recording. In no case may images be recorded” in the first paragraph by “. In no case may images be recorded or sound or image recordings be broadcast”;

(2) by replacing “All must” in the third paragraph by “All persons must comply with those rules and”.

5. Article 15 of the Code, amended by section 62 of chapter 17 of the statutes of 2020, is again amended by inserting “, in matters regarding authorization for care or for the alienation of a body part, in matters regarding confinement in institution” after “family matters” in the first paragraph.

6. Article 16 of the Code is amended

(1) by inserting “, in matters regarding authorization for care or for the alienation of a body part, in matters regarding confinement in institution” after “family matters” in the first paragraph;

(2) by inserting “, in a matter regarding authorization for care or for the alienation of a body part, in a matter regarding confinement in institution” after “a family matter” in the last paragraph.

7. Article 26 of the Code is amended by inserting “, for holding hearings or for sending and receiving documents in a medium other than paper” after “management purposes” in the second paragraph.

8. Article 61 of the Code is amended by replacing the third paragraph by the following paragraphs:

“If the judgment finds that contempt of court was committed, it must set out the facts on which the finding of contempt is based. The resulting sanction may be imposed in a subsequent judgment.

The time limit for appealing a finding of contempt runs as of the date of the notice of judgment imposing the sanction or the date of the judgment imposing the sanction if the judgment was rendered at the hearing.”

9. Article 101 of the Code is amended by inserting “, in particular if the court is permitted to rule on the face of the record” after “court” in the fourth paragraph.

10. Article 107 of the Code is amended

(1) by replacing “the following day, at opening time” in the fourth paragraph by “at the court office’s next opening time”;

(2) by replacing the fifth paragraph by the following paragraph:

“To be considered received on the date of its filing, a pleading must be filed with the prescribed court costs and fees, if any. However, if the amount of the costs and fees is determined by the court clerk after the pleading is filed, payment must be made not later than two days after the notification of a notice stating the amount.”

11. Article 115 of the Code is amended by adding the following paragraph at the end:

“Notification of a pleading can be made at the court office if the addressee has no known domicile, residence or business establishment and the addressee is not represented by a lawyer or no notary is acting for the addressee. In such circumstances, the notification of the notice of execution, of opposition to seizure or sale, or of application for the annulment of a seizure or sale can also be made at the court office.”

12. Article 138 of the Code is amended by replacing “on the first day of publication” in the second paragraph by “on the date the time limit specified for taking delivery of the document expires”.

13. Article 139 of the Code, amended by section 63 of chapter 17 of the statutes of 2020, is again amended by inserting “and to cross-applications instituted against a party represented by a lawyer” at the end of the third paragraph.

14. Article 145 of the Code is amended by replacing “and informs the defendant that they are available on request” in the first paragraph by “. The plaintiff sends them to the defendant as soon as possible, in the manner they agree on”.

15. Article 148 of the Code is amended by replacing “and, if written,” in subparagraph 5 of the second paragraph by “, and, if the defence is oral, the possibility of filing a brief outline of the arguments made and the time limit for filing the outline if it cannot be filed with the case protocol or, if the defence is written,”.

16. Article 152 of the Code is amended

(1) by inserting the following sentence after “filing.”: “On the expiry of a period of 15 days after the filing, the proposal serves as the filed case protocol, unless the party that failed to co-operate has stated the points on which the parties differ.”;

(2) by replacing “In such circumstances” by “If points on which the parties differ remain”.

17. Article 154 of the Code is amended by replacing “to set the case down for trial” in the first paragraph by “to set the date”.

18. Article 157 of the Code is amended by adding the following paragraph at the end:

“The judge seized of a case may also, for the same reasons and with the authorization of the chief justice or chief judge, on their own initiative or on request, order special case management at any time, in which case the judge has the same responsibilities as a judge assigned by the chief justice or chief judge.”

19. Article 168 of the Code is amended by adding the following paragraph at the end:

“If the exceptions on which the application for dismissal is founded were disclosed to the court at least 10 days before their presentation, the court may deny the application on the face of the record on the grounds that the application has no reasonable chance of success.”

20. Article 170 of the Code is amended by inserting the following paragraph after the second paragraph:

“The defendant discloses to the plaintiff the exhibits in support of the defence as soon as possible, in the manner they agree on.”

21. Article 173 of the Code is amended by replacing “or the case management conference following the filing of the case protocol is held, or after the date the case protocol is established by the court” in the first paragraph by “or after the date on which the court accepted or established the case protocol”.

22. Article 188 of the Code is amended

(1) by inserting “and state to the third person that that person must answer within the following 15 days” at the end of the first paragraph;

(2) in the second paragraph,

(a) by striking out “and the third person”;

(b) by inserting “after the third person answers” after “10 days”.

23. Article 192 of the Code is amended

(1) by inserting the following paragraphs after the first paragraph:

“A party that revokes the mandate of its lawyer must notify its decision to the other parties and to the court clerk and state its intention to appoint a new lawyer or to self-represent.

The lawyer brought in as a substitute must, without delay, notify a representation statement giving the lawyer’s name and contact information to the other parties and to the court clerk.”;

(2) by inserting “, without prior notice,” after “may request” in the second paragraph.

24. Article 221 of the Code is amended by adding the following paragraph at the end:

“A judgment on an application relating to an undertaking concerning the disclosure of a document made for or at a pre-trial examination may be rendered on the face of the record.”

25. Article 228 of the Code is amended

(1) by replacing “heard by” in the third paragraph by “submitted to”;

(2) by replacing “orally or in writing” in the fourth paragraph by “on the face of the record”.

26. Article 246 of the Code is amended by inserting “or unless the exhibits have already been disclosed” after “court” in the first paragraph.

27. Article 395 of the Code is amended by adding the following sentence at the end: “These persons may consult or copy the court record.”

28. Article 396 of the Code is amended by adding the following sentence at the end: “These persons may consult or copy the court record.”

29. Article 443 of the Code is amended by replacing “Government” in the first paragraph by “Minister of Justice”.

30. Article 540 of the Code is amended by replacing the second sentence of the third paragraph by the following sentences: “If an agreement or a settlement is reached, the judge homologates it. If no settlement is reached after conciliation is held during the hearing, the judge may continue the trial. If no settlement is reached after a settlement conference, the judge may take the appropriate case management measures or, with the parties’ consent, convert the conference into a case management conference, but may not subsequently try the case or decide any incidental application.”

31. Article 545 of the Code is amended by replacing “together with the exhibits or copies of the exhibits. In all instances, if the originals of the exhibits are not filed with the application,” in the second paragraph by “and the exhibits or copies of the exhibits must be filed within 10 days after the application is filed. If originals of the exhibits are not filed within that time limit,”.

32. Article 549 of the Code is amended by replacing “the exhibits or copies of the exhibits in support of the contentions of the defence with the court office. If originals of the exhibits are not filed with the defence,” in the first paragraph by “the exhibits or copies of the exhibits in support of the contentions of the defence with the court office within 10 days of the defence. If originals of the exhibits are not filed within that time limit,”.

33. Article 550 of the Code is amended by inserting “within 10 days after filing the application” after “court office”.

34. Article 551 of the Code is amended by replacing “submits the exhibits in support of the related contentions” by “files the exhibits in support of the related contentions with the court office within 10 days of the application for intervention”.

35. Article 554 of the Code is amended by replacing “21” in the second and third paragraphs by “30”.

36. Article 555 of the Code is amended

(1) by replacing “21” by “30”;

(2) by inserting “, at least 15 days before that date,” after “request”.

37. Article 560 of the Code is amended, in the first paragraph,

(1) by striking out “, and explains any rules of prescription that are applicable”;

(2) by adding the following sentence at the end: “The court may, on its own initiative, raise the exception resulting from prescription by allowing the parties to respond to it.”

CODE OF PENAL PROCEDURE

38. Article 2.2 of the Code of Penal Procedure (chapter C-25.1), enacted by section 1 of chapter 12 of the statutes of 2020, is amended by replacing the second paragraph by the following paragraphs:

“Subject to article 61, a judge may use such means or, if the interests of justice so require, order that such means be used by the parties, even on the judge’s own initiative and without the parties’ consent, including for case management purposes, for holding hearings or for sending and receiving documents in a medium other than paper.

The judge must, before ordering that such means be used, give the parties an opportunity to assert observations.”

39. Article 10 of the Code is amended

(1) by inserting “in writing or orally” after “made” in the first paragraph;

(2) by replacing the second paragraph by the following paragraph:

“The judge examines the allegations in support of the application. The judge may, if of the opinion that it is necessary, hear the applicant. The judge may also examine the sworn depositions of witnesses and, for that purpose, the judge has the power to compel them to appear and to testify. The judge must use all necessary means to ensure the confidentiality of the writings, where applicable.”

40. Article 31 of the Code is amended by inserting “, except an application for the authorization contemplated in paragraph 3 of article 9” after “application” in the second paragraph.

41. Article 141.11 of the Code, enacted by section 34 of chapter 12 of the statutes of 2020, is amended by adding the following sentence at the end: “Those applications may be made at a distance using technological means.”

42. The Code is amended by inserting the following article after article 194.1:

“194.2. Persons present at a court hearing must conduct themselves in a respectful and restrained manner. Only those who prove their status as journalists may make a sound recording of the proceedings and the decision, unless the judge prohibits them from doing so. In no case may images be recorded or sound or image recordings be broadcast.

The parties and their attorneys are duty-bound to exercise restraint throughout the proceeding out of respect for the judicial process.

Every person must comply with those rules and obey the orders of the judge and of the officers of justice under the judge’s authority, under pain of contempt of court.”

43. The Code is amended by inserting the following article after article 206:

“206.1. A court or judge does not lose jurisdiction in respect of an offence because of failure to exercise jurisdiction or because certain requirements for adjournment or postponement were not complied with.

The judge does not lose jurisdiction in respect of a defendant because an adjournment or postponement is ordered in the absence of the defendant.”

ACT RESPECTING THE FORFEITURE, ADMINISTRATION AND APPROPRIATION OF PROCEEDS AND INSTRUMENTS OF UNLAWFUL ACTIVITY

44. Section 23 of the Act respecting the forfeiture, administration and appropriation of proceeds and instruments of unlawful activity (chapter C-52.2) is amended by replacing “or the Controlled Drugs and Substances Act (Statutes of Canada, 1996, chapter 19)” in the first paragraph by “, the Controlled Drugs and Substances Act (Statutes of Canada, 1996, chapter 19) or the Cannabis Act (Statutes of Canada, 2018, chapter 16)”.

45. Section 24 of the Act is amended by replacing “or the Controlled Drugs and Substances Act (Statutes of Canada, 1996, chapter 19)” by “, the Controlled Drugs and Substances Act (Statutes of Canada, 1996, chapter 19) or the Cannabis Act (Statutes of Canada, 2018, chapter 16)”.

46. Section 33 of the Act is amended by replacing “or the Controlled Drugs and Substances Act (Statutes of Canada, 1996, chapter 19)” in the third paragraph by “, the Controlled Drugs and Substances Act (Statutes of Canada, 1996, chapter 19) or the Cannabis Act (Statutes of Canada, 2018, chapter 16)”.

47. Schedule 2 to the Act is amended by replacing “*or of the Controlled Drugs and Substances Act (Statutes of Canada, 1996, chapter 19)*” and “*or Controlled Drugs and Substances Act*” by “, *of the Controlled Drugs and Substances Act (Statutes of Canada, 1996, chapter 19) or of the Cannabis Act (Statutes of Canada, 2018, chapter 16)*” and “, *Controlled Drugs and Substances Act or Cannabis Act*”, respectively.

JURORS ACT

48. Section 29 of the Jurors Act (chapter J-2) is amended, in the second paragraph,

(1) by replacing “and accompany his application with an affidavit.” by “. The application is deemed to be a sworn statement.”;

(2) by replacing “registered mail” by “any appropriate means”.

49. Section 32 of the Act is amended by striking out “or authorize a mode other than that provided for in section 29”.

50. Section 34 of the Act is amended by adding the following paragraph at the end:

“The judge may delegate to the sheriff the power to rule, on the day the attendance of jurors is required in court, on an application for exemption, disqualification or postponement of service to a later session.”

NOTARIES ACT

51. Section 15 of the Notaries Act (chapter N-3) is amended by replacing “section 16” in the introductory clause by “sections 15.1 and 16”.

52. The Act is amended by inserting the following section after section 15:

“**15.1.** A student may give legal advice or opinions for others if the student complies with the following conditions:

(1) the student is enrolled in a program of study whose diploma is one of the diplomas which combine to give access to the permit issued by the Order;

(2) the student performs those acts in a legal clinic of a university-level educational institution that grants a diploma that is one of the diplomas which combine to give access to the permit issued by the Order; and

(3) the student performs those acts under the close supervision and responsibility of a notary.

The board of directors must determine, by by-law, from among the regulatory standards applicable to notaries, those standards applicable to students as well as the terms and conditions that apply to the notaries supervising them. The by-law may also prescribe additional terms and conditions according to which students may perform such acts.

The board of directors must consult the Barreau du Québec before adopting a by-law under the second paragraph.”

ACT RESPECTING PAYMENT OF CERTAIN WITNESSES

53. Section 2 of the Act respecting payment of certain witnesses (chapter P-2.1) is amended by striking out “, attested under oath,” in subsection 2.

YOUTH PROTECTION ACT

54. Section 82 of the Youth Protection Act (chapter P-34.1) is amended

(1) by replacing “and must” in the fourth paragraph by “. Every person must comply with the rules stated in this section and”;

(2) in the fifth paragraph,

(a) by inserting “sound” before “recording”;

(b) by replacing “may images be recorded” by “may images be recorded or sound or image recordings be broadcast”.

COURTS OF JUSTICE ACT

55. Section 224 of the Courts of Justice Act (chapter T-16) is amended

(1) by adding the following sentence at the end of the second paragraph: “However, if the amount of the costs and fees is determined by the clerk after the filing of a proceeding or other document, the proceeding or document may be filed if the costs or fees are paid not later than two working days after the notification of a notice indicating their amount.”;

(2) by replacing “be entered on the proceeding or document filed” in the third paragraph by “be affixed to the proceeding, the document or a document filed with it”.

TRANSITIONAL AND FINAL PROVISIONS

56. On or before (*insert the date that is six months after the date of assent to this Act*), the board of directors of the Barreau du Québec and the board of directors of the Ordre des notaires du Québec must adopt a by-law under the second paragraph of section 128.1 of the Act respecting the Barreau du Québec (chapter B-1), enacted by section 3 of this Act, or under the second paragraph of section 15.1 of the Notaries Act (chapter N-3), enacted by section 53 of this Act, as applicable.

On the expiry of that time, the Government may, on the recommendation of the Minister of Justice and the minister responsible for the administration of legislation respecting the professions, and after obtaining the opinion of the Office des professions du Québec, adopt such a by-law if the board of directors concerned has not done so.

57. Articles 554 and 555 of the Code of Civil Procedure (chapter C-25.01) remain applicable, as they read before being amended by sections 35 and 36, respectively, of this Act, to parties that received a notice of hearing before (*insert the date that is three months after the date of assent to this Act*).

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

(1) sections 2 and 3, which come into force on the date of coming into force of the first by-law made under section 128.1 of the Act respecting the Barreau du Québec, enacted by section 3 of this Act;

(2) sections 30 to 37, which come into force on (*insert the date that is three months after the date of assent to this Act*);

(3) sections 51 and 52, which come into force on the date of coming into force of the first by-law made under section 15.1 of the Notaries Act, enacted by section 52 of this Act.

