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# NATIONAL ASSEMBLY

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SECOND SESSION

THIRTY-SIXTH LEGISLATURE

Bill 68

**An Act to amend the Act respecting  
municipal courts, the Courts of Justice  
Act and other legislative provisions**

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**Introduction**

**Introduced by  
Mr Paul Bégin  
Minister of Justice**

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## **EXPLANATORY NOTES**

*This bill amends the Act respecting municipal courts, the Courts of Justice Act and other legislative provisions to subject all the municipal courts of Québec, including those of the cities of Laval, Montréal and Québec, to the Act respecting municipal courts. A new office of associate chief judge is created within the Court of Québec, its holder to be responsible for the municipal courts. The associate chief judge, under the authority of the chief judge of the Court of Québec, will have the direction of the municipal courts and take over the functions currently exercised by the chief judge of the municipal courts, in particular as regards the establishment of the general policies of the municipal courts, the adoption of uniform rules of practice, the monitoring of compliance with judicial ethics and the promotion of professional development for municipal judges.*

*The bill revises the structure of the administrative functions within the municipal courts, providing for the appointment by the Government of president judges in the courts in which the judges exercise their functions exclusively and on a full-time basis. The bill provides that a president judge may be assisted by an associate president judge, appointed by the Government, if circumstances so warrant. The function of president judge or associate president judge is to coordinate the work of the judges assigned to the court. President judges and associate president judges will exercise their functions under the authority of the associate chief judge responsible for the municipal courts.*

*The bill disqualifies municipal judges from acting in their capacity as advocates before a municipal court and before the Court of Québec.*

*The bill amends the Code of Penal Procedure to authorize the application of the provisions of the Criminal Code concerning audio and video evidence and to restrict the scope of the powers of collectors of fines upon their designation.*

*Lastly, the bill contains various measures intended to ensure the transition from the rules under the current Act respecting the municipal courts to the rules introduced by this bill.*

**LEGISLATION AMENDED BY THIS BILL :**

- Code of Penal Procedure (R.S.Q., chapter C-25.1);
- Act respecting municipal courts (R.S.Q., chapter C-72.01);
- Courts of Justice Act (R.S.Q., chapter T-16);
- Charter of the City of Laval (1965, 1<sup>st</sup> session, chapter 89);
- Act to reform the municipal territorial organization of the metropolitan regions of Montréal, Québec and the Outaouais (2000, chapter 56).



## Bill 68

### AN ACT TO AMEND THE ACT RESPECTING MUNICIPAL COURTS, THE COURTS OF JUSTICE ACT AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

#### ACT RESPECTING MUNICIPAL COURTS

**1.** Section 1 of the Act respecting municipal courts (R.S.Q., chapter C-72.01) is amended by striking out “other than the cities of Laval, Montréal and Québec,” in the first and second lines.

**2.** Section 23 of the said Act is amended

(1) by replacing “and the” in the first line of the first paragraph by “who shall consult the”;

(2) by striking out “of the municipal courts” at the end of the first paragraph.

**3.** Section 24 of the said Act is amended by inserting “or to determine any other place where the court may hold its sittings” after “sittings” in the second line of the second paragraph.

**4.** The said Act is amended by inserting the following section before section 25 in Division I of Chapter III :

**“24.1.** Municipal courts and municipal judges shall be under the authority of the associate chief judge of the Court of Québec who is responsible for municipal courts. The associate chief judge shall exercise, under the authority of the chief judge of the Court of Québec, the functions exercised by the chief judge in respect of municipal judges and municipal courts pursuant to this Act.”

**5.** Section 25 of the said Act is amended by adding the following paragraphs at the end :

“However, in courts where judges exercise their functions exclusively and on a full-time basis, the Government shall appoint a president judge from among the judges where it considers that the volume of judicial activity so warrants.

The Government may, in addition, where circumstances so warrant, appoint an associate president judge from among the judges of the court to assist the president judge in the exercise of his or her functions.”

**6.** The said Act is amended by inserting the following sections after section 25 :

**“25.1.** Under the authority of the chief judge, the president judge and the judge responsible for the court shall be responsible for coordinating and distributing the work of the judges assigned to the court, assigning the cases and scheduling the sittings of the court. The judges must, in that regard, comply with the orders and directives of the president judge and judge responsible for the court.

The president judge shall also exercise such other functions as the chief judge determines.

**“25.2.** The term of office of the president judge is seven years and the term of office of the judge responsible for the court is three years. The term may not be renewed.

The president judge and the judge responsible for the court shall remain in office notwithstanding the end of their term until they are replaced.

Where the president judge is absent or unable to act, he or she may be replaced by the associate president judge or, where there is no associate president judge, by another municipal judge appointed by the Government from among the judges assigned to the same court, to exercise the functions of the president judge until the president judge resumes the exercise of his or her functions or is replaced.

**“25.3.** Where the judge responsible for the court is absent or unable to act, he or she may be replaced by another municipal judge appointed by the Government from among the judges assigned to the same court, to exercise the functions of the judge responsible for the court until the latter resumes his or her functions or is replaced.

**“25.4.** The associate president judge shall advise and assist the president judge. In addition, the president judge shall exercise such other functions as are determined by the chief judge.

**“25.5.** The term of office of the associate president judge shall not exceed three years and may be renewed.

The associate president judge shall remain in office notwithstanding the end of his or her term until he or she is replaced or reappointed.”

**7.** Section 36 of the said Act is amended by striking out “of the municipal courts” in the first line of the second paragraph.

**8.** Sections 36.1 to 36.5 of the said Act are repealed.

**9.** Section 37 of the said Act is amended by replacing “other than those of Laval, Montréal and Québec” in the fifth line by “or before the Court of Québec”.

**10.** Section 37.1 of the said Act is repealed.

**11.** The English text of section 39.3 of the said Act is amended by replacing “give preference” in the first line by “give priority consideration”.

**12.** The English text of section 42 of the said Act is amended by replacing “The Minister” in the third line by “The chief judge”.

**13.** The said Act is amended by inserting the following section after section 45 :

“**45.1.** Every judge exercising his or her functions in a municipal court to which a president judge has been appointed must exercise such functions on an exclusive basis.

The second paragraph of section 129 of the Courts of Justice Act applies to the exercise of such functions.”

**14.** Section 46 of the said Act is amended by inserting “that is not under the authority of a president judge” after “court” in the second line of the first paragraph.

**15.** Section 49 of the said Act is amended by adding the following paragraphs at the end :

“However, in the case of a municipal court under the authority of a president judge, the Government shall fix, by order, the salaries of the judges appointed to the municipal court and determine the pension plan applicable to them as well as their employment benefits.

The Government shall fix, in the same manner, the additional remuneration attached to the office of president judge and of associate president judge.”

**16.** Sections 49.1 to 49.3 of the said Act are repealed.

**17.** Section 51 of the said Act is amended by striking out “, 49.1 or 49.2” in the first line.

**18.** Section 54 of the said Act is amended by inserting “Under the authority of the chief judge,” at the beginning.

**19.** Section 55 of the said Act is amended by adding the following paragraph at the end :

“Where the size of the territory of the municipality served by a municipal court so warrants, the municipal court may, in addition, sit at any other place in the territory that is indicated in the by-law or agreement establishing the court approved by the Government.”

**20.** Section 56.1 of the said Act is amended by adding “and take into account the specific character of the municipal courts” at the end.

**21.** Section 56.2 of the said Act is amended by inserting the following paragraph after the first paragraph :

“Similarly, a majority of the judges of the Municipal Court of Ville de Montréal may, either at a meeting called for that purpose by the chief judge or through any other means whereby the chief judge may consult them, supplement the rules of practice with special rules applicable only before their court.”

**22.** Section 58 of the said Act is amended by inserting the following paragraph after the first paragraph :

“The clerk may designate, from among the members of the personnel assigned to the office of the court, the members who may perform certain acts in the clerk’s stead or in the stead of the deputy clerk, provided those acts do not require the exercise of any judicial or discretionary power.”

**23.** Section 66 of the said Act is amended by inserting “or, if it so decides, the director general” after “court” in the second line of the first paragraph.

**24.** Section 84 of the said Act is amended by adding the following sentence at the end of the fourth paragraph : “The council may, however, in its internal by-law, delegate to the executive committee of the municipality the responsibility of effecting a remittance of the fine and costs.”

**25.** Section 86.1 of the said Act is repealed.

**26.** Section 98 of the said Act is amended by replacing “and the” in the first line by “who shall consult the”.

**27.** Section 111 of the said Act is amended by replacing “and the” in the first line of the first paragraph by “who shall consult the”.

#### COURTS OF JUSTICE ACT

**28.** The Courts of Justice Act (R.S.Q., chapter T-16) is amended by inserting the following section after section 5.3 :

**“5.3.1.** The cities of Laval, Montréal and Québec may entrust the administration of the pension plan of the municipal judges of their respective courts to the Commission administrative des régimes de retraite et d’ assurances.

They may also agree with the person or body responsible for the administration of the employee benefits plan applicable to the judges of the Court of Québec under this Act to offer the same plan to the municipal judges of their respective courts.

The obligations of the city, of the judges or of any other person shall be determined by the agreement.”

**29.** Section 85 of the said Act is amended by replacing “three” in the second line by “four”.

**30.** Section 88.1 of the said Act is repealed.

**31.** Section 90 of the said Act is amended

(1) by replacing “and” in the third line of the first paragraph by “,”;

(2) by adding “and an associate chief judge responsible for municipal courts” at the end of the first paragraph.

**32.** Section 98 of the said Act is amended by adding the following paragraph at the end :

“The associate chief judge responsible for municipal courts has the direction of the municipal courts and, as such, his or her functions, in addition to the functions conferred under the Act respecting municipal courts (chapter C-72.01), shall be

(1) to establish, concurrently with the municipal judges, general policies applicable to them and to ensure that the policies are respected ;

(2) to see that such uniform rules of practice as are necessary for the exercise of the jurisdiction of the municipal courts are adopted and to supervise their application ;

(3) to ensure that judicial ethics are observed ;

(4) to promote the professional development of municipal judges in collaboration with the Conseil de la magistrature ;

(5) to provide support to municipal judges in their efforts to improve the operation of the municipal courts.”

**33.** Section 101 of the said Act is replaced by the following section :

**“101.** Where an associate chief judge is absent or unable to act, the chief judge shall designate, to exercise the functions of the associate chief judge, either a judge of the division concerned in the case of an associate chief judge of a division, or a judge of the Court of Québec in the case of an associate chief judge responsible for municipal courts. The judge designated shall exercise such functions until the associate chief judge resumes his or her functions or is replaced.”

**34.** Section 246.29 of the said Act is amended by replacing “municipal courts to which the Act respecting municipal courts (chapter C-72.01) applies” in the fifth and sixth lines of the second paragraph by “other municipal courts”.

**35.** Section 246.30 of the said Act is amended by replacing “municipal courts to which the Act respecting municipal courts (chapter C-72.01) applies” in the third and fourth lines of the second paragraph by “other municipal courts”.

**36.** Section 246.31 of the said Act, amended by section 37 of chapter 30 of the statutes of 1998, is again amended

(1) by striking out “the chief judge of the municipal courts,” in the second paragraph;

(2) by replacing “municipal courts” in subparagraph 2 of the third paragraph by “Court of Québec”;

(3) by striking out “the chief judge of the municipal courts,” and “, the chief judge of the municipal courts” in subparagraph 4 of the third paragraph;

(4) by replacing “municipal courts to which the Act respecting municipal courts (chapter C-72.01) applies” in the seventh and eighth lines of the fourth paragraph by “other municipal courts”.

**37.** Section 246.36 of the said Act, amended by section 38 of chapter 30 of the statutes of 1998, is again amended by striking out “the chief judge of the municipal courts,” in the third paragraph.

**38.** Section 246.41 of the said Act, amended by section 39 of chapter 30 of the statutes of 1998, is again amended by striking out “the chief judge of the municipal courts or” in the first paragraph.

**39.** Section 246.42 of the said Act is amended by replacing “to which the Act respecting municipal courts (chapter C-72.01) applies” in the second line of the second paragraph by “, other than the municipal courts of Laval, Montréal and Québec.”

**40.** Section 248 of the said Act, amended by section 172 of chapter 26 of the statutes of 2001, is again amended

- (1) by replacing “three” in paragraph *c* by “four”;
- (2) by replacing “chief judges” in paragraph *d* by “president judges”;
- (3) by striking out paragraph *d.2*;
- (4) by striking out “or the Municipal Courts of Laval, Montréal or Québec” in paragraph *e*;
- (5) by striking out “other than those of Laval, Montréal or Québec” in paragraph *f*.

**41.** Section 262 of the said Act is amended

- (1) by adding “of this Act or section 45.1 of the Act respecting municipal courts” at the end of the first paragraph;
- (2) by striking out the last sentence of the second paragraph.

CODE OF PENAL PROCEDURE

**42.** Article 61 of the Code of Penal Procedure (R.S.Q., chapter C-25.1), amended by section 91 of chapter 32 of the statutes of 2001, is again amended by adding the following paragraph at the end:

“The provisions of the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46) relating to video and audio evidence apply, having regard to the resources put at the disposal of the court, to the trial of proceedings instituted in accordance with this Code.”

**43.** Article 322 of the said Code is amended by adding the following sentence at the end of the first paragraph: “The powers conferred on collectors may be restricted to the purposes defined in the instrument of appointment.”

CHARTER OF THE CITY OF LAVAL

**44.** Sections 31 to 31.13 and 645 of the Charter of the City of Laval (1965, 1<sup>st</sup> session, chapter 89) are repealed.

ACT TO REFORM THE MUNICIPAL TERRITORIAL ORGANIZATION OF THE METROPOLITAN REGIONS OF MONTRÉAL, QUÉBEC AND THE OUTAOUAIS

**45.** Section 243 of the Act to reform the municipal territorial organization of the metropolitan regions of Montréal, Québec and the Outaouais (2000, chapter 56) is repealed.

## TRANSITIONAL AND FINAL PROVISIONS

**46.** The term of office of the chief judge of the municipal courts in office on *(insert here the date that occurs one day before the date of coming into force of this Act)* ends on that date. The chief judge becomes, on *(insert here the date of coming into force of this Act)*, a judge of the Court of Québec and the associate chief judge of that Court who is responsible for the municipal courts.

**47.** The terms of office of the judge responsible for the court and the coordinating judge of the Municipal Court of Ville de Montréal end upon the appointment of a president judge for that court, in accordance with section 25 of the Act respecting municipal courts, as amended by this Act. They are entitled to receive the additional remuneration attached to their office until the end of the term for which they had been appointed.

The associate chief judge of that court ceases to hold that office upon the appointment of a president judge and ceases at that time to receive the additional remuneration attached to that office.

**48.** The judges of the Municipal Court of Ville de Laval are governed as regards their status and remuneration by the provisions of the Charter of the City of Laval (1965, 1<sup>st</sup> session, chapter 89) applicable to them, which remain in effect solely for those purposes.

However, the remuneration of the judges is that to which they are entitled on 30 June 2001 under the provisions applicable to them at that time and, thereafter, the remuneration determined in their regard pursuant to section 246.44 of the Courts of Justice Act.

**49.** The Municipal Court of Ville de Laval is maintained and is deemed to have been established in accordance with the Act respecting municipal courts.

The new municipal courts established by section 234 of the Act to reform the municipal territorial organization of the metropolitan regions of Montréal, Québec and the Outaouais (2000, chapter 56) are deemed to have been established in accordance with the Act respecting municipal courts.

**50.** The repeal by section 44 of this Act of the provisions of the Charter of the City of Laval relating to the Municipal Court does not entail, by that sole fact, a loss of jurisdiction of the court in matters pending on *(insert here the date that occurs one day before the date of coming into force of this Act)*.

**51.** The judges of the municipal courts of the cities of Laval, Montréal and Québec retain their powers of two justices of the peace for the purposes of the Acts of the Parliament of Canada which require that competence, in respect of proceedings brought before their respective court before *(insert here the date of coming into force of this Act)*, until the conclusion of the proceedings, including on appeal.

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