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# NATIONAL ASSEMBLY OF QUÉBEC

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FIRST SESSION

FORTY-THIRD LEGISLATURE

## Bill 12

**An Act to reform family law with regard to filiation and to protect children born as a result of sexual assault and the victims of that assault as well as the rights of surrogates and of children born of a surrogacy project**

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### Introduction

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

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## EXPLANATORY NOTES

*This bill amends the Civil Code with regard to filiation.*

*The bill allows a child, where born as a result of a sexual assault, to contest his filiation with regard to the assailant or to object to such a filiation being established. It also makes the assailant responsible for contributing to meeting the child's needs by paying an indemnity to the victim of the sexual assault. The bill also makes it possible for the child to be considered a descendant in the first degree of the assailant for the purposes of the rules regarding legal devolution or of testamentary provisions.*

*The bill codifies certain recognized principles and certain rules derived from jurisprudence and clarifies and harmonizes certain measures. In addition, it exempts actions relating to filiation from prescription. It recognizes surrogacy and regulates it in order to protect the interests of the child and to protect surrogates in the context of surrogate pregnancies. It therefore makes it possible, in the context of a parental project, to resort to surrogacy in order to have a child and it prescribes the terms and conditions which must be met. To that end, it provides, among other things, for the obligation to enter into a surrogacy agreement before the beginning of the pregnancy and the obligation to obtain, after the child is born, the consent of the person who gave birth to the child to the bond of filiation with the child being established exclusively with regard to the intended parents. The bill provides for the legal establishment of the filiation of a child born of such a parental project where all the parties to the agreement are domiciled in Québec on the condition, in particular, that the agreement is entered into by notarial act en minute after an information session is held on the psychosocial implications and ethical issues the parental project involves. The bill also sets out the rules that apply where the person who agreed to give birth to a child is domiciled in another State designated by the Government, such as the obligation to have the parental project authorized beforehand by the minister who is responsible for social services. The bill amends the Act respecting parental insurance and the Act respecting labour standards to take account of surrogacy, among other things, in the granting of the benefits and leaves provided for in those Acts.*

*The bill recognizes the right to know one's origins in favour of any person born of procreation involving the contribution of a third person so that they may be informed, in certain circumstances, of the name and profile of that third person and given the information making it possible to contact the third person, unless the latter has registered a contact veto. The bill also gives that person the right to obtain, subject to certain conditions, the documents provided for in the bill. To enable the exercise of those rights, the bill entrusts the Minister of Employment with the responsibility of keeping a register containing the relevant information and documents and it provides for the communication of information to that Minister by various people and bodies, among which the parents, the registrar of civil status and the centres for assisted procreation. The bill also proposes to facilitate the communication of medical information in respect of assisted procreation involving the contribution of a third person if a person's health warrants it.*

*Lastly, the bill makes consequential amendments and contains transitional measures.*

#### **LEGISLATION AMENDED BY THIS BILL:**

- Civil Code of Québec;
- Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1);
- Act respecting clinical and research activities relating to assisted procreation (chapter A-5.01);
- Health Insurance Act (chapter A-29);
- Act respecting parental insurance (chapter A-29.011);
- Code of Civil Procedure (chapter C-25.01);
- Act respecting labour standards (chapter N-1.1);
- Notaries Act (chapter N-3);
- Act respecting health services and social services (chapter S-4.2);
- Act to ensure the protection of trainees in the workplace (2022, chapter 2).



## Bill 12

### **AN ACT TO REFORM FAMILY LAW WITH REGARD TO FILIACTION AND TO PROTECT CHILDREN BORN AS A RESULT OF SEXUAL ASSAULT AND THE VICTIMS OF THAT ASSAULT AS WELL AS THE RIGHTS OF SURROGATES AND OF CHILDREN BORN OF A SURROGACY PROJECT**

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CIVIL CODE OF QUÉBEC

**1.** Article 113 of the Civil Code of Québec is amended

(1) by replacing “, or by either of them,” by “or by the parents, or by one of them,”;

(2) by adding the following paragraphs at the end:

“Where a parental project involving surrogacy is carried to completion, the declaration must be accompanied by an authentic copy of the notarized surrogacy agreement and by a copy of the written statement of consent referred to in article 541.9. If the woman or the person who gave birth to the child dies or becomes incapable of giving consent before expressing their will, the declaration must be accompanied by a document indicating the death or by a certificate establishing the incapacity, as the case may be.

Where the parental project is not carried to completion, the declaration must be accompanied by the information determined by government regulation concerning the profile of any party to the surrogacy agreement, other than the woman or the person who gave birth to the child, who provided their reproductive material.”

**2.** The Code is amended by inserting the following article after article 113:

**“113.1.** The mother or the person who gave birth to the child shall, subject to the rules of filiation for a child born of a parental project involving surrogacy, declare the filiation of the child with regard to themselves.”

**3.** Article 116 of the Code is amended

(1) by inserting “or parents” after “mother” in the first paragraph;

(2) by inserting “or of the parents” at the end of the second paragraph;

(3) by adding the following paragraph at the end:

“Where the child is born of a parental project involving surrogacy, the person making the declaration shall also provide the documents required under the second paragraph of article 113 or the information required under the third paragraph of that article. If the person making the declaration does not have access to an authentic copy of the notarized surrogacy agreement, the person shall provide the information held in that regard. The registrar of civil status may then obtain from the depository of the original agreement an authentic copy of the agreement.”

**4.** The Code is amended by inserting the following article after article 132.1:

**“132.2.** The clerk of the court that has rendered a judgment recognizing an act of birth drawn up by a foreign competent authority or recognizing a foreign decision regarding the filiation of a child born of a parental project involving surrogacy in which the woman or the person who gave birth to the child is domiciled outside Québec notifies the judgment to the registrar of civil status as soon as the judgment becomes final.

On receipt of the judgment, the registrar of civil status, as the case may be,

(1) inserts the act of birth that has been the object of a judicial recognition in the register of civil status; or

(2) draws up the act of birth from the foreign decision that has been the object of a judicial recognition, indicating the particulars consistent with the foreign decision and, where that decision has established the child’s filiation with regard to only one of the spouses who formed the parental project, the particulars consistent with the judgment rendered following an application made under the second paragraph of article 541.34.”

**5.** The Code is amended by replacing the heading “*GENERAL PROVISION*” before article 522 by the following:

**“CHAPTER I**

**“GENERAL PROVISIONS”.**

**6.** The Code is amended by inserting the following article after article 522:

**“522.1.** The filiation of a child is proved by his act of birth, regardless of the manner in which filiation is established.”

**7.** Chapter I of Title Two of Book Two of the Code is amended by replacing the portion before article 523 by the following:

**“CHAPTER II**

**“FILIACTION BY BIRTH**

**“DIVISION I**

**“GENERAL PROVISION**

**“522.2.** All children have a right to the establishment of their filiation in accordance with the conditions provided for in this Chapter, without further consideration.

**“DIVISION II**

**“FILIACTION BY ACKNOWLEDGEMENT OR BY BLOOD”.**

**8.** Article 523 of the Code is replaced by the following article:

**“523.** The filiation of a child is established with regard to the mother or parent by the fact of their having given birth to him and, with regard to the father or other parent, by the acknowledgement of a bond of filiation in the declaration of birth in accordance with the rules prescribed by this Code.

In the absence of such an acknowledgement in the declaration of birth, uninterrupted possession of status is sufficient.”

**9.** Article 524 of the Code is amended

(1) by replacing “the persons of whom he is said to be born” by “the person who acts toward him as his parent. For possession to be uninterrupted, such conduct must begin at the child’s birth and continue for a minimum period of 24 months, except in exceptional circumstances”;

(2) by adding the following paragraph at the end:

“Uninterrupted possession of status may not be established in cases where it is exercised by more than one person simultaneously.”

**10.** The Code is amended by striking out the following before article 525:

“§2. —*Presumption of paternity*”.

**11.** Subdivision 3 of Division I and Division II of Chapter I of Title Two of Book Two of the Code, comprising articles 526 to 537, are repealed.

**12.** Chapter I.1 of Title Two of Book Two of the Code is replaced by the following:

**“DIVISION III**

**“FILIIATION OF CHILDREN BORN OF PROCREATION INVOLVING THE CONTRIBUTION OF A THIRD PERSON**

*“§1.—Parental project involving the use of a third person’s reproductive material”.*

**13.** Article 538 of the Code is replaced by the following article:

**“538.** A parental project involving the use of the reproductive material of a third person is formed from the moment a person alone or spouses have decided, in order to have a child, to use the reproductive material of a person who is not party to the parental project and who agrees to their material being used for that purpose.

The reproductive material may be provided through assisted procreation activities carried out in a centre for assisted procreation. The material may also be provided through artisanal insemination or sexual intercourse.

The parental project comprises all children born of it and it must not entail their being dissociated.”

**14.** Article 538.1 of the Code is replaced by the following article:

**“538.1.** The filiation of a child born of a parental project involving the use of the reproductive material of a third person is established with regard to the mother or the parent by the fact of their having given birth to the child.

Filiation is established with regard to the other parent, if applicable, by the acknowledgement of a bond of filiation in the declaration of birth in accordance with the rules prescribed by this Code. In the absence of such an acknowledgement in the declaration of birth, uninterrupted possession of status is sufficient.

Uninterrupted possession of status is established by an adequate combination of facts which indicate the relationship of filiation between the child and the person who acts toward him as his parent. For the possession to be uninterrupted, such conduct must begin at the child’s birth and continue for a minimum period of 24 months, except in exceptional circumstances.

Uninterrupted possession of status may not be established in cases where it is exercised by more than one person simultaneously.”



**15.** Article 538.2 of the Code is replaced by the following article:

**“538.2.** A child born of a parental project involving the use of the reproductive material of a third person may not claim filiation with regard to the third person who provided such reproductive material for the purposes of the project. Likewise, that third person may not claim a bond of filiation with regard to the child.”

**16.** Article 539 of the Code is replaced by the following article:

**“539.** Where a necessary condition for the validity of the parental project is not met, the filiation of the child is established in accordance with the rules of filiation by acknowledgement or by blood. However, no bond of filiation may be established with regard to the person who has agreed to provide their reproductive material as a third person for the purposes of the project.”

**17.** Articles 539.1 and 541 of the Code are repealed.

**18.** The Code is amended by inserting the following after article 541:

*“§2.—Parental project involving surrogacy*

*“I.—General provisions*

**“541.1.** A parental project involving surrogacy is formed from the moment a person alone or spouses domiciled in Québec have decided, in order to have a child, to resort to a woman or a person who is not party to the parental project to give birth to the child.

The parental project comprises all children born of it and must not entail their being dissociated.

**“541.2.** The person alone or the spouses who formed the parental project must, prior to the planned pregnancy, enter into a surrogacy agreement with the woman or the person who has agreed to give birth to the child. No other person may be a party to the agreement.

The woman or the person who has agreed to give birth to the child must be 21 years of age or over at the time the agreement is entered into. If the woman or the person is the sister, ascendant or descendant of the person alone or of one of the spouses who formed the parental project, there may be no combining, whatsoever, of the reproductive material of the woman or the person with that of a sibling, ascendant or descendant of the woman or the person.

**“541.3.** The contribution made to the parental project by the woman or the person who has agreed to give birth to a child must be gratuitous. However, the woman or person is entitled, in accordance with the standards determined by government regulation, to the reimbursement or payment of certain expenses and to compensation, where applicable, for loss of work income resulting from

that contribution. If domiciled outside Québec, the woman or person is also entitled, as provided for by the law of the State of their domicile, to the reimbursement or payment of certain expenses and compensation for loss of work income.

The person alone or the spouses who formed the parental project may not claim reimbursement of the amounts they paid under the first paragraph for the sole reason that the project was not carried to completion.

**“541.4.** For the parental project involving surrogacy to be carried to completion, the woman or the person who gave birth to the child shall, after the birth, consent to the filiation of the child being established exclusively with regard to the person alone or both spouses who formed the parental project.

**“541.5.** Renunciation by the woman or the person who has agreed to give birth to the child of their right to express, after the child’s birth, their will as to the establishment of the child’s filiation is without effect.

A clause tending to prevent the woman or the person who has agreed to give birth to a child from expressing consent in a free and enlightened manner, after the child’s birth, is without effect. A penal clause intended for the same purpose is also without effect.

**“541.6.** The child may not claim filiation with regard to the woman or the person who gave birth to him in the context of a parental project involving surrogacy to which the woman or person contributed. Likewise, the woman or person may not claim a bond of filiation with regard to the child once their consent to the filiation of the child being established exclusively with regard to the person alone or both spouses who formed the parental project has been given or is deemed to have been given.

*“II. — Children born of a parental project in which the parties to the agreement are domiciled in Québec*

*“1. — General provisions*

**“541.7.** The person alone or the spouses who formed the parental project and the woman or the person who has agreed to give birth to the child must have been domiciled in Québec for at least one year prior to entering into the surrogacy agreement in order for the rules allowing the legal or judicial establishment of the child’s filiation to apply to the parental project involving surrogacy.

**“541.8.** Only the woman or person who has agreed to give birth to a child in the context of a parental project involving surrogacy may, at any time before the child’s birth, unilaterally terminate the surrogacy agreement; the woman or person must then do so in writing and notify a copy to the person alone or the spouses who formed the parental project. In the latter case, notification given to one of the spouses is deemed to have been given to the other spouse.

Where there is a termination of the pregnancy, the surrogacy agreement is terminated without further formality.

**“541.9.** To give consent, the woman or the person who gave birth to the child must expressly consent to their bond of filiation with regard to the child being deemed never to have existed and to the establishment of a bond of filiation with regard to the person alone or both spouses who formed the parental project.

Consent shall be given by notarial act *en minute* or by a private writing before two witnesses who have no interest in the surrogacy project. In the latter case, the author and the witnesses sign it, indicating the date and place the consent is given. Consent may also be given by a judicial declaration, in the course of proceedings relating to the filiation of the child. Refusal to consent is subject to no formal requirement.

Consent given in a language other than French shall be accompanied by a translation authenticated in Québec.

A government regulation may determine other elements to be covered by the consent as well as the contents of the document in which it is stated.

**“541.10.** The amounts reimbursed for certain expenses and, if applicable, paid as compensation for loss of work income to the woman or the person who has agreed to give birth to the child, in consideration of their contribution to a parental project involving surrogacy, are exempt from seizure. However, compensation paid for loss of work income is seizable with regard to a debt of support in accordance with articles 694 and following of the Code of Civil Procedure (chapter C-25.01), with the necessary modifications.

*“2.—Prior conditions and legal establishment of filiation*

**“541.11.** Before the beginning of the pregnancy, the woman or the person who has agreed to give birth to the child must meet, without the presence of the person alone or the spouses who formed the parental project, with a professional qualified to inform the woman or the person of the psychosocial implications of the surrogacy project and of the ethical issues it involves. The same applies to the person alone or the spouses who formed the parental project.

At the end of the meeting, the professional gives a signed attestation to each person the professional met with confirming that they attended the meeting.

The professional must be a member of a professional order designated by the Minister of Justice.

**“541.12.** Following the information meeting, the parties to the surrogacy project who wish to pursue it must, by notarial act *en minute*, enter into a surrogacy agreement.

The agreement is drawn up in French. The parties may be bound only by a version in a language other than French if, after examining the French version, such is their express wish.

The notary shall obtain from each of the parties the attestation received at the information meeting, and shall mention having done so in the agreement.

**“541.13.** The surrogacy agreement establishes the nature of the expenses that may be paid or reimbursed to the woman or the person who has agreed to give birth to the child, in accordance with the regulation referred to in article 541.3. The agreement also provides, if applicable, for the deposit in a trust account of the notary who executes it of an amount to guarantee the amount agreed on in the agreement.

The agreement also contains the information determined by government regulation concerning the profile of the woman or the person who has agreed to give birth to the child and of any other party to the agreement who intends to provide their reproductive material.

A government regulation may provide for any other standard relating to the content of the agreement or to the deposit referred to in the first paragraph.

**“541.14.** After his birth, the child is entrusted to the person alone or the spouses who formed the parental project, unless the woman or the person who gave birth to the child objects to it. In the event that the person alone or the spouses are deceased or unable to act, the child is entrusted to the director of youth protection.

Entrusting the child entails, by operation of law, the delegation of the exercise of parental authority and of tutorship to the person alone, the spouses or the director of youth protection, as the case may be.

Where the delegation is evidenced in writing, it shall be evidenced by notarial act *en minute* or by a private writing drawn up before two witnesses who have no interest in the surrogacy project. In the latter case, the author and the witnesses sign it, indicating the date and place of execution.

**“541.15.** The consent of the woman or the person who gave birth to the child must be given within 30 days from the birth of the child, but not before seven days have elapsed since the birth.

**“541.16.** If the conditions for the legal establishment of filiation are met, the child’s filiation is deemed established exclusively with regard to the person alone or both spouses who formed the parental project from the child’s birth.

The child’s birth is declared to the registrar of civil status in accordance with the rules prescribed by this Code.

**“541.17.** If the woman or the person who gave birth to the child disappears with the child before expressing their will concerning the establishment of the child’s filiation or refuses to have their bond of filiation with regard to the child be deemed never to have existed and to a bond of filiation being established with regard to the person alone or both spouses who formed the parental project, as the case may be, the filiation of the child is established in accordance with the rules of filiation by acknowledgement or by blood.

However, the presumption with regard to the spouse of the woman or the person who gave birth to the child does not apply. Furthermore, no bond of filiation may be established with regard to the person who has agreed to provide their reproductive material as a third person for the purposes of the project.

**“541.18.** Where the woman or the person who gave birth to the child dies before expressing their will concerning the establishment of the child’s filiation, their consent is deemed to have been given. Filiation is then deemed established exclusively with regard to the person alone or both spouses who formed the parental project from the child’s birth.

The same applies in cases where the woman or the person became incapable of giving consent before expressing their will, provided the incapacity is certified by a member of a professional order designated by the Minister of Justice. Such certification may be communicated to the person alone or to the spouses who formed the parental project, despite the professional being bound by professional secrecy with regard to the person to whom the certificate pertains. This presumption applies only if 30 days have elapsed since the child’s birth.

The child’s birth is declared to the registrar of civil status in accordance with the rules prescribed by this Code.

**“541.19.** Should the person alone or the spouses who formed the parental project, or one of them, die, be unable to act or disappear, the child’s filiation is deemed established exclusively with regard to that person alone or those spouses, subject to the consent of the woman or the person who gave birth to the child.

The child’s birth is declared to the registrar of civil status in accordance with the rules prescribed by this Code.

*“3.—Judicial establishment of filiation*

**“541.20.** Where a prior condition for the legal establishment of the child’s filiation is not met, the filiation of the child is established in accordance with the rules of filiation by acknowledgement or by blood. However, the presumption with regard to the spouse of the woman or the person who gave birth to the child does not apply. Furthermore, no bond of filiation may be established with regard to the person who has agreed to provide their reproductive material as a third person for the purposes of the parental project.

Only the court is then authorized to change the filiation. An application to that effect must be submitted to the court within 60 days after the birth of the child, except in exceptional circumstances.

**“541.21.** Where the court is seized with an application to change the child’s filiation, it ascertains that the general conditions relating to the parental project involving surrogacy have been met. It therefore ascertains, in particular, that the woman or the person who gave birth to the child has consented to their bond of filiation with regard to the child being deemed never to have existed and to such a bond being established with regard to the person alone or both spouses who formed the parental project, as the case may be.

If the court finds the parental project to be compliant, it confirms the existence of a parental project involving surrogacy and changes the child’s filiation to establish it with regard to that person or to the spouses. Filiation is then deemed established exclusively with regard to them from the child’s birth.

If the court finds otherwise, it declares the parental project involving surrogacy null and dismisses the application.

**“541.22.** Where the child’s filiation is changed with regard to the person alone or the spouses who formed the parental project, the change is made despite their death, their being unable to act or their disappearance.

**“541.23.** In the event that the woman or the person who gave birth to the child died before expressing their will concerning the establishment of the child’s filiation, their consent is deemed to have been given.

The same rule applies in the event that the woman or the person who gave birth to the child became incapable of giving consent before expressing their will. This presumption applies only if 30 days have elapsed since the child’s birth.

**“541.24.** In the event that the woman or the person who gave birth to the child disappeared without the child before expressing their will concerning the establishment of the child’s filiation, their consent is presumed to have been given if 30 days have elapsed since the child’s birth.

**“541.25.** Where the court is seized with an application related to the filiation of a child born of a parental project involving surrogacy, it rules, if need be, on the fees payable to the advocate representing the woman or the person who gave birth to the child, which are borne by the person alone or by the spouses who formed the parental project, who are solidarily liable for them.

*“III. — Children born of a parental project in which the woman or the person who gave birth to the child is domiciled outside Québec*

*“1. — Prior conditions*

**“541.26.** Every parental project involving surrogacy in which the woman or the person who has agreed to give birth to a child is domiciled outside Québec must comply with the general conditions applicable to any parental project involving surrogacy and those prescribed by this subdivision, regardless of the nationality of the person alone or the spouses who formed the project, of whether they have a residence in the State of the domicile of the woman or the person who has agreed to give birth to the child or otherwise have a right to act in a foreign State under the applicable law in that State and regardless of whether the filiation of the child born of such project has been established in a foreign State.

**“541.27.** The parental project shall, before the process is set in motion, be submitted for prior authorization to the Minister of Health and Social Services by the person alone or the spouses who formed the project.

The authorization is given on condition, in particular, that the person alone or the spouses who formed the parental project provide the attestation received after the information meeting, that the State chosen by the person or the spouses is designated by the Government and that the project meets the other conditions prescribed by law.

The Government may, by regulation, prescribe additional conditions the parental project must meet for the authorization to be obtained.

The Minister notifies the registrar of civil status of every parental project the Minister receives for authorization, whether the project is authorized or not.

**“541.28.** The person alone or the spouses who formed the parental project must have been domiciled in Québec for at least one year before applying for prior authorization.

Where the woman or the person who has agreed to give birth to the child is domiciled outside Canada, the person alone or at least one of the spouses must, in addition, be a Canadian citizen or a permanent resident. If the parental project does not involve a Canadian citizen, the reproductive material provided for the conception of the child who is the subject of the parental project must be the permanent resident’s reproductive material.

The Government may, by regulation, determine other conditions that must be met by the person alone or the spouses who formed such a parental project.

**“541.29.** The person alone or the spouses who formed the parental project must meet with a professional qualified to inform them of the psychosocial implications of such a project and of the ethical issues it involves.

At the end of the meeting, the professional gives a signed attestation to each person the professional met with confirming that they attended the meeting.

The professional must be a member of a professional order designated by the Minister of Justice.

**“541.30.** The consent of the woman or the person who gave birth to the child must be given in express terms, in writing or by a judicial declaration in the course of proceedings relating to the filiation of the child.

Consent given in a language other than French shall be accompanied by a translation authenticated in Québec.

**“541.31.** The parental project may be carried out only if the woman or the person who has agreed to give birth to the child is domiciled in a foreign State designated by the Government.

The Government may only designate a foreign State where the rules and practices relating to surrogacy are not contrary to public order and respect the interest of the child once born, including the child’s safety and integrity as well as the safety and integrity of the other persons involved in a surrogacy project. The Government may also take into account any other criteria it considers appropriate.

Such a designation is made on the joint recommendation of the Minister of Justice and the Minister of Health and Social Services as well as, as the case may be, the Minister of International Relations or the Minister responsible for Canadian Intergovernmental Affairs.

**“541.32.** Once the prior authorization has been obtained, the surrogacy agreement, accompanied by the information concerning the profile of the woman or the person who has agreed to give birth to the child and the documents determined by government regulation, must, before being signed, be submitted to the Minister of Health and Social Services for authorization, according to the terms prescribed by such regulation.

If the Minister considers that the agreement is compliant, the Minister issues an authorization to proceed with the parental project involving surrogacy.

A copy of the signed agreement is filed with the Minister, together with the necessary documents, by the person alone or the spouses who formed the project. Any modification to the agreement must be authorized by the Minister.

**“541.33.** The Minister of Health and Social Services must be notified, by the person alone or the spouses who formed the parental project, of every birth resulting from a project that the Minister has authorized. The Minister then ascertains that the project is compliant as a whole and may require any information or any document he considers necessary from that person or those spouses.



In analyzing the project, the Minister shall, among other things, ascertain that the child was born in a designated State.

If the Minister considers that the implementation of the project is compliant with the project the Minister has authorized, the Minister issues a certificate of compliance to the person alone or the spouses who formed the project. If the Minister finds otherwise, the Minister informs the person or the spouses of the refusal to issue such a certificate and of the reasons for the refusal.

“2.—*Judicial recognition of filiation*

“**541.34.** An act of birth drawn up by a foreign competent authority proving the child’s filiation with regard to the person alone or the spouses who formed a parental project or one of them must be recognized by the court in Québec. The same applies to a decision rendered abroad that establishes such a filiation.

In the case of a filiation that is proved or established with regard to only one spouse, an application to claim status concerning the other spouse must be attached to the application for recognition.

“**541.35.** The steps necessary for the recognition of an act of birth drawn up by a foreign authority or of a decision establishing filiation rendered abroad shall be undertaken by the person alone or the spouses who formed a parental project as soon as possible after they receive the certificate of compliance from the Minister of Health and Social Services or a notice of the Minister’s refusal to issue the certificate.

If the steps for recognition are not undertaken or completed within a reasonable time, the director of youth protection may, at the request of the Minister of Health and Social Services, take, in the place and stead of the person alone or the spouses who formed the parental project, all necessary measures to undertake or complete those steps or put an end to them.

“**541.36.** The court, where called upon to recognize an act of birth drawn up by a foreign competent authority proving filiation with regard to the person alone or the spouses who formed the parental project involving surrogacy or one of them or to recognize a decision establishing such a filiation rendered abroad, ascertains that all the rules applicable to such a project have been complied with, both according to the law of Québec and the law of the State from which the act of birth or decision originates.

It thus ascertains, in particular, that the woman or the person who gave birth to the child has given their consent, after the birth of the child, to the child’s filiation being established exclusively with regard to the person alone or both spouses who formed the parental project. Where the woman or the person who gave birth to the child dies before having expressed their will concerning the

establishment of the child's filiation, their consent is deemed to have been given. The same applies where the woman or person has become incapable of giving consent before expressing their will after the child's birth.

The court also ascertains that the Minister of Health and Social Services has issued a certificate of compliance. In the absence of such a certificate, the court hears the parties, including the Minister, and, if it finds that the surrogacy project does not comply with the general conditions applicable to any parental project involving surrogacy, it refuses to recognize the act or decision.

Recognition may, for serious reasons and if the interest of the child demands it, be granted even if no steps have been undertaken with the Minister by the person alone or by the spouses who formed a parental project or if steps are only partly completed.

**“541.37.** The recognition of an act of birth drawn up by a foreign competent authority or of a decision rendered abroad produces, from the date on which the child's filiation took effect in the foreign State with regard to the person alone or the spouses who formed the parental project or one of them, the same effects as if that act had been drawn up in Québec or as if the decision had been rendered there.”

**19.** Article 542 of the Code is replaced by the following:

*“3.— Confidentiality of personal information and documents related to the procreation of a child involving the contribution of a third person and rules for communicating such information and documents*

*“I.— Confidentiality of personal information and documents related to the procreation of a child involving the contribution of a third person*

**“542.** Personal information and documents relating to the procreation of a child involving the contribution of a third person and held by a centre for assisted procreation, a professional or a public body, as the case may be, are confidential, except as otherwise provided by law.

However, the court may allow such information and those documents to be examined for the purposes of study, teaching, research or a public inquiry, provided that the anonymity of the child, of the third person who contributed to the child's procreation and of the person alone or the spouses who formed the parental project is preserved.

*“II.— Rules respecting communication of personal information and documents related to the procreation of a child involving the contribution of a third person*

**“542.1.** A person born of procreation involving the contribution of a third person, including one under 14 years of age who has obtained the approval of his father and mother, of his parents or of his tutor, has the right to obtain, from the authority designated by law and among the information contained in the

register referred to in article 542.10, the name of the third person, the information concerning the third person's profile determined by government regulation and, unless a contact veto bars its disclosure, the information making contact with the third person possible.

The person also has the right to obtain, according to the terms determined by government regulation, a copy of the surrogacy agreement, of the judgment concerning the person's filiation, if applicable, as well as of the other documents contained in the judicial file and of any other documents determined by the regulation. The communication of any document must, however, be made in keeping with any contact veto registered, and the passages that provide information making contact with the third person possible must be deleted or redacted accordingly.

**“542.2.** It is the responsibility of the child's parent to inform the child of the fact that he was born of procreation involving the contribution of a third person.

It is also the parent's responsibility to inform the child of the rules concerning the disclosure of the third person's name, the information concerning the third person's profile, the information making contact with the third person possible and the documents to which the child is entitled.

**“542.3.** A person 14 years of age or over born of assisted procreation involving the contribution of a third person who makes a request with the authority designated by law is entitled to be informed whether he was born of procreation involving the contribution of a third person, provided that the information is available in the register referred to in article 542.10. The designated authority also informs the person of the rules concerning the disclosure of the third person's name, the information concerning the third person's profile, the information making contact with the third person possible and the documents to which the person is entitled.

**“542.4.** The descendants 14 years of age or over in the first degree of a person born of procreation involving the contribution of a third person may, if the person born of such procreation is deceased, obtain from the authority designated by law the same information and the same documents that the person may obtain under this subdivision, subject to the same conditions.

**“542.5.** A third person who has contributed to the procreation of a child shall, at the time of the first request for information about them, be informed of the request by the authority designated by law so as to have the opportunity to express their will regarding contact, indicating, if applicable, the conditions under which contact is authorized. If the third person is untraceable or incapable of expressing their will, disclosure of the third person's name entails, by operation of law, a contact veto. In the event the third person is found or again becomes capable of expressing their will, the third person must be given the opportunity to maintain or withdraw the veto.

A third person who has registered a contact veto following a first request may, at any time, withdraw the veto by so notifying the authority designated by law.

**“542.6.** In the event the person sought is deceased, only the person’s name, the information concerning the person’s profile and, if applicable, the documents referred to in the second paragraph of article 542.1 are communicated.

**“542.7.** Where a contact veto is registered or where contact is authorized on conditions, the name of the person sought is disclosed on the condition that the contact veto or the conditions on which contact is authorized be complied with.

The person who obtains the information on that condition but violates the condition is liable towards the person sought and may also be required to pay punitive damages.

**“542.8.** Where the request concerns the woman or the person who gave birth to the child in the context of a parental project involving surrogacy while domiciled outside Québec, communication of the information making contact with the woman or person possible is subject to the woman’s or person’s consent, unless the law of the State of the woman’s or person’s domicile provides otherwise.

**“542.9.** Psychosocial support services are offered to any person who undertakes steps to receive communication of information and documents to which the person is entitled, and also to any other person who is the subject of such steps, where they express the need for such services to the authority designated by law.

The authority refers those persons to the person or institution designated by the Minister of Health and Social Services for the provision of such services.

**“542.10.** The Minister of Employment and Social Solidarity keeps a register containing the information and documents to which a person born of procreation involving the contribution of a third person is entitled as well as those relating to the third person’s will regarding contact with that person.

**“542.11.** The Minister of Employment and Social Solidarity is the designated authority for disclosing to any person born of a parental project involving the use of reproductive material from a third person or involving surrogacy in which all the parties are domiciled in Québec, or to his descendants in the first degree, if applicable, who apply to the Minister, the information and documents held by the Minister and that they are entitled to obtain under this subdivision. The Minister is also the designated authority for disclosing, to the physician who provides to the Minister a certificate confirming that the health of the person born of such a project, of the third person who contributed to it or of a close relative genetically linked to them, as the case may be, warrants the communication of medical information, information held by the Minister under this subdivision which the physician is entitled to obtain under article 542.18.

If the Minister has grounds to believe that information or documents are lacking or incomplete, the Minister may make a summary investigation to obtain the required information.

**“542.12.** The Minister of Health and Social Services is the designated authority for disclosing to any person born of a parental project involving surrogacy in which the woman or the person who gave birth to the child is domiciled outside Québec, or to his descendants in the first degree, if applicable, who apply to the Minister, the information and documents contained in the register kept by the Minister of Employment and Social Solidarity and that they are entitled to obtain under this subdivision. The Minister of Health and Social Services is also the designated authority for disclosing, to the physician who provides to the Minister a certificate confirming that the health of the person born of such a project, of the third person who contributed to it or of a close relative genetically linked to them, as the case may be, warrants the communication of medical information, information contained in that register which the physician is entitled to obtain under article 542.18. In addition, the Minister is responsible for entering in the register the information and wishes collected in the exercise of the Minister’s functions as the designated authority and for depositing the documents received in the register.

**“542.13.** The Minister of Employment and Social Solidarity and the Minister of Health and Social Services may require from public bodies holding information or documents necessary for locating the third person who contributed to the procreation the communication of such information or documents. They may also have access, if applicable, to the judicial file relating to the filiation of a person born of a parental project involving surrogacy.

**“542.14.** In the case of a surrogacy project in which all the parties are domiciled in Québec and at the end of which the child’s filiation was established by law, the registrar of civil status deposits in the register the authentic copy of the surrogacy agreement, in the form of a notarial act *en minute*, which accompanies the declaration of birth.

After drawing up the child’s act of birth, the registrar enters the child’s name and date of birth and any other information determined by government regulation in the register.

**“542.15.** In the case of a parental project involving the use of a third person’s reproductive material through artisanal insemination or sexual intercourse, the name of the third person, the information making it possible to contact them and the information concerning their profile, determined by government regulation, are collected by the person alone or the spouses who formed the parental project. The same applies in the case of a parental project involving the use of reproductive material from outside Québec in the context of assisted procreation activities carried out in a centre for assisted procreation, to the extent that the information is known.

The information is transmitted, at the time the child's declaration of birth is made, to the registrar of civil status by the person alone or the spouses who formed the parental project. After drawing up the act of birth, the registrar of civil status enters that information, the child's name and date of birth, and the other information determined by government regulation, in the register.

**“542.16.** Once the judgment recognizing an act of birth drawn up outside Québec or a foreign decision has become final, the Minister of Health and Social Services files that judgment and the surrogacy agreement in the register and enters therein the name of the woman or the person who gave birth to the child and the information making it possible to contact the woman or the person. The Minister also enters in the register the information concerning the profile of that woman or that person, determined by government regulation, that accompanied the agreement that was submitted to the Minister for authorization by the person alone or by the spouses who formed a parental project involving surrogacy in which the woman or the person who gave birth to the child is domiciled outside Québec.

**“542.17.** For the purposes of this division, where no bond of filiation is established between a child born of procreation involving surrogacy and a party to the parental project who has provided their reproductive material, that party is considered to be a third person having contributed to the procreation of the child; the woman or person who agreed to give birth to the child is then considered to have formed a parental project involving the use of the reproductive material of that third person.

In such a case, the registrar of civil status shall deposit the profile accompanying the declaration of birth in the register.

*“III. — Disclosure of medical information*

**“542.18.** Where a physician is of the opinion that the health of a person born of procreation involving the contribution of a third person, of that third person or of a close relative genetically linked to them warrants it, the physician may obtain the necessary medical information from the medical authorities concerned, subject to the consent of the person whose information is requested. In the absence of such consent, the court's authorization is required to obtain such information.

The authority designated by law shall, after obtaining the consent of the person whose medical information is requested, disclose the information making it possible to identify that person and to contact that person or the person's physician to the physician who provides the authority with a written attestation confirming that the health of the person born of procreation involving the contribution of a third person, of that third person or of a close relative genetically linked to them, as the case may be, warrants the disclosure of medical information. Where the information requested concerns a woman or a person who gave birth to a child in the context of a parental project involving

surrogacy who is domiciled outside Québec, that obligation applies, provided such disclosure of information is not prohibited by the State of origin of the woman or person.

The anonymity of the persons concerned must be preserved. A physician who receives information referred to in the second paragraph must take appropriate security measures to ensure its confidentiality.

#### “DIVISION IV

#### “ACTIONS RELATING TO FILIATION

“**542.19.** No one may claim filiation contrary to that assigned by their act of birth and the uninterrupted possession of status consistent with that act.

Unless otherwise provided by law, no one may contest the status of a person whose uninterrupted possession of status is consistent with their act of birth.

Where uninterrupted possession of status cannot be established because it is exercised by more than one person simultaneously, the person who is biologically related to the child takes precedence. However, in the case of a child born of procreation involving the contribution of a third person, the person who formed a parental project with the child’s parent takes precedence.

“**542.20.** No one may contest the filiation of a child on the sole ground that he was born of a parental project involving the contribution of a third person.

However, the filiation of a child whose uninterrupted possession of status is not consistent with his act of birth may be contested by providing proof that the person with whom the filiation is established was not a party to the parental project or, as the case may be, that the child was not born of that project.

“**542.21.** Any interested person, including the father or mother or one of the child’s parents, may, by any means, contest the filiation of a person whose uninterrupted possession of status is not consistent with his act of birth.

“**542.22.** A child may contest his filiation on the sole ground that he was born as a result of sexual assault committed by his father or by the parent who did not give birth to him, whether or not there is uninterrupted possession of status consistent with his act of birth. The contestation can only be granted if the interest of the child demands it.

The child may apply for the definitive restoration of the bond of filiation that was withdrawn at his request, unless he has been adopted.

**“542.23.** A child whose filiation appearing in his act of birth is not consistent with the filiation established by uninterrupted possession of status may claim his filiation before the court. Similarly, the father and mother or the parents may claim a bond of filiation with regard to a child whose uninterrupted possession of status is not consistent with his act of birth.

If the child already has another filiation established by an act of birth, by uninterrupted possession of status, or by the effect of the presumption with regard to the spouse of the woman or the person who gave birth to him, an action to claim status may not be brought unless it is joined to an action contesting the status thus established.

**“542.24.** A child born as a result of sexual assault may object to a bond of filiation being established between him and the person who committed the assault.

The child’s objection shall not prevent the child from claiming such a bond of filiation.

**“542.25.** Actions are directed against the child and, if applicable, against the person who is the subject of the claim or contestation.

**“542.26.** Proof of filiation may be made by any mode of proof. However, testimony is not admissible unless there is a commencement of proof, or unless the presumptions or indications resulting from already clearly established facts are sufficiently strong to permit its admission.

**“542.27.** Commencement of proof results from the family documents, domestic records and papers, and all other public or private writings originating from a party engaged in the contestation or who would have an interest therein if the party were alive.

**“542.28.** Every mode of proof is admissible to contest an action concerning filiation.

**“542.29.** For the purposes of articles 542.22 and 542.24, sexual assault may be proved, among other means, by the production of a judgment recognizing its existence.

**“542.30.** Where the court is seized of an action concerning filiation, it may, on the application of an interested person, order the analysis of a sample of a bodily substance so that the genetic profile of a person involved in the action may be established.

However, where the purpose of the action is to establish filiation, the court may not issue such an order unless a commencement of proof of filiation has been established by the person having brought the action or unless the presumptions or indications resulting from facts already clearly established by that person are sufficiently strong to warrant such an order.



The court determines conditions for the sample-taking and analysis that are as respectful as possible of the physical integrity of the person concerned or of the body of the deceased. These conditions include the nature and the date and place of the sample-taking, the identity of the expert charged with taking and analyzing the sample, the use of any sample taken and the confidentiality of the analysis results.

The court may draw a negative presumption from an unjustified refusal to submit to the analysis ordered by the court.

**“542.31.** The court may establish the filiation of a child born of an assisted procreation activity with regard to a person who was deceased at the time the activity was carried out if it is shown to the court that

(1) the person was a party to the parental project at the time of the death; and

(2) the child was conceived using the reproductive material of the person or, as the case may be, the reproductive material that the person had decided to use to have a child.

Participation of that person in the parental project is presumed if that person and the parent with regard to whom filiation with the child is established were spouses at the time of the death and if the child is born of the transfer of an embryo created before the death.

**“542.32.** Actions concerning filiation are not subject to prescription.

In the event the child or the child’s father or mother or parent is deceased, the heirs must act within three years of the death, under pain of forfeiture.

## **“DIVISION V**

### **“FINANCIAL RESPONSIBILITY FOR THE NEEDS OF A CHILD BORN AS A RESULT OF SEXUAL ASSAULT**

**“542.33.** A person who commits a sexual assault is, in the absence of a bond of filiation with the child born as a result of the assault, responsible for contributing to meeting the child’s needs by paying an indemnity to the victim of the sexual assault who gave birth to the child. This responsibility extends to the needs of the child from the time of his birth to the time he attains autonomy.

Sexual assault may be proved, among other means, by the production of a judgment recognizing its existence.

**“542.34.** If there is a significant change in the child’s state of health due to circumstances unknown or unforeseeable at the time the initial indemnity was determined and the change is such as to substantially alter the child’s needs or significantly delay or prevent the child from attaining autonomy, the person

who committed the sexual assault must pay an indemnity to contribute to meeting the child's additional needs until he attains autonomy, given the circumstances.

**“542.35.** If the victim of the sexual assault does not exercise the rights conferred by article 542.33 or 542.34, the child of full age may apply to have the part of the indemnity intended to meet his needs from the time he reaches the age of majority paid directly to him. The application must be notified to the victim.

The indemnity may not extend to a need whose existence dates back more than three years before the application.

**“542.36.** For the purposes of article 542.33, where the sexual assault is proved, the court may order the analysis of a sample of a bodily substance, so that the genetic profile of the person who committed the sexual assault may be established.

The court determines conditions for the sample-taking and analysis that are as respectful as possible of the physical integrity of the person concerned or of the body of the deceased. These conditions include the nature and the date and place of the sample-taking, the identity of the expert charged with taking and analyzing the sample, the use of any sample taken and the confidentiality of the analysis results.

The court may draw a negative presumption from an unjustified refusal to submit to the analysis ordered by the court.

**“542.37.** Where an action to claim an indemnity under article 542.33 or 542.34 is brought by the victim of a sexual assault, it is not subject to prescription.

In the event the person who committed the sexual assault is deceased, the action must be brought within six months after the death. The same applies where the action is brought by a child of full age.”

**20.** Chapter II of Title Two of Book Two of the Code becomes Chapter III of that Title.

**21.** Article 543 of the Code is amended by replacing “filiation already established by blood” in the second paragraph by “a filiation already established by birth”.

**22.** Article 578 of the Code is amended by replacing “by blood” in the first paragraph by “by birth”.

**23.** Article 578.1 of the Code is repealed.

**24.** Article 655 of the Code is amended by replacing “ties of blood or of adoption” by “bonds of filiation by birth or of filiation by adoption”.

**25.** The Code is amended by inserting the following articles after article 658:

**“658.1.** A child born as a result of sexual assault is considered as the descendant in the first degree of the person who committed the assault, despite the absence of a bond of filiation with regard to that person, for the purposes of the devolution of that person’s succession and of the succession of that person’s relatives.

Sexual assault may be proved, among other means, by the production of a judgment recognizing its existence.

**“658.2.** For the purposes of article 658.1, where the sexual assault is proved, the court may order the analysis of a sample of a bodily substance so that the genetic profile of the person who committed the sexual assault may be established.

The court determines conditions for the sample-taking and analysis that are as respectful as possible of the physical integrity of the person concerned or of the body of the deceased. These conditions include the nature and the date and place of the sample-taking, the identity of the expert charged with taking and analyzing the sample, the use of any sample taken and the confidentiality of the analysis results.

The court may draw a negative presumption from an unjustified refusal to submit to the analysis ordered by the court.”

**26.** The Code is amended by inserting the following articles after article 742:

**“742.1.** A child born as a result of sexual assault is considered a descendant in the first degree of the person who committed the assault, despite the absence of a bond of filiation with regard to that person, for the execution of the person’s testamentary provisions or those of the person’s relatives, subject to the sufficient expression by the testator of a different intention.

Sexual assault may be proved, among other means, by the production of a judgment recognizing its existence.

**“742.2.** For the purposes of article 742.1, if the sexual assault is proved, the court may order the analysis of a sample of a bodily substance so that the genetic profile of the person who committed the sexual assault may be established.

The court determines conditions for the sample-taking and analysis that are as respectful as possible of the physical integrity of the person concerned or of the body of the deceased. These conditions include the nature and the date

and place of the sample-taking, the identity of the expert charged with taking and analyzing the sample, the use of any sample taken and the confidentiality of the analysis results.

The court may draw a negative presumption from an unjustified refusal to submit to the analysis ordered by the court.”

**27.** The heading of subdivision 4 before article 3091 of the Code is amended by replacing “*by blood and filiation by adoption*” by “*by birth and filiation by adoption*”.

#### ACT RESPECTING ACCESS TO DOCUMENTS HELD BY PUBLIC BODIES AND THE PROTECTION OF PERSONAL INFORMATION

**28.** Section 2 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1) is amended by inserting the following paragraph after paragraph 3.1:

“(3.2) the information and documents relating to the procreation of a child involving the contribution of a third person and contained in the register kept by the Minister of Employment and Social Solidarity, in accordance with article 542.10 of the Civil Code;”.

#### ACT RESPECTING CLINICAL AND RESEARCH ACTIVITIES RELATING TO ASSISTED PROCREATION

**29.** The Act respecting clinical and research activities relating to assisted procreation (chapter A-5.01) is amended by inserting the following section after section 10.2:

“**10.2.1.** Before carrying out any assisted procreation activity in the context of a parental project involving surrogacy within the meaning of the Civil Code, the physician must first obtain an attestation from the notary confirming the existence of a surrogacy agreement in the form of a notarial act *en minute* between the person alone or the spouses who formed the parental project and the woman or person who has agreed to give birth to the child, if the parties are domiciled in Québec.”

**30.** Section 36.1 of the Act is amended by inserting “, section 10.2.1” after “10.2”.

**31.** The Act is amended by inserting the following section after section 43:

“**43.1.** For the purposes of articles 542 to 542.18 of the Civil Code, a centre for assisted procreation must, as concerns the third person who provides reproductive material for the purpose of contributing to the assisted procreation of a child, collect

(1) the information concerning the third person's profile determined by regulation in accordance with article 542.1 of that Code;

(2) the third person's name; and

(3) the information making contact with the third person possible.

If the reproductive material of a third person is used to contribute to the assisted procreation of a child, the centre must send that information as soon as possible to the Minister of Employment and Social Solidarity for entry in the register kept in accordance with article 542.10 of that Code.

However, if the reproductive material used to contribute to the assisted procreation of a child comes from outside Québec, the centre must inform the person alone or the spouses who formed the parental project of their obligation to send the information concerning the profile to the registrar of civil status in accordance with article 542.15 of that Code. The centre must send to the Minister of Employment and Social Solidarity, as soon as possible, the name and location of the enterprise from which the reproductive material was obtained, for entry in the register kept in accordance with article 542.10 of that Code.

A government regulation prescribes the other information that must be sent by the centre to that Minister.”

## HEALTH INSURANCE ACT

**32.** Section 65 of the Health Insurance Act (chapter A-29) is amended

(1) by inserting “or of each of the parents” after “father” in the seventh paragraph;

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

“The Board must, on a request by the Minister of Employment and Social Solidarity or by the Minister of Health and Social Services and to allow the Minister to identify or locate, for the purposes of articles 542.1 and 542.18 of the Civil Code, the third person who contributed to the procreation of a child or, as the case may be, the child born of procreation involving the contribution of a third person, transmit to the Minister the names, date of birth, sex, address or phone numbers of a person entered in the Minister's register of insured persons as well as, if applicable, the person's date of death and address at the time of death. The name of the spouse of a person entered in its register may also be transmitted if the other information does not make it possible to locate the third person who contributed to the procreation of a child or, as the case may be, the child born of procreation involving the contribution of a third person.”

## ACT RESPECTING PARENTAL INSURANCE

**33.** Section 2 of the Act respecting parental insurance (chapter A-29.011) is amended by adding the following at the end:

“(5) in the case of a surrogacy project, benefits for the person who has agreed to give birth to a child and paternity benefits or exclusive benefits for each of the non-birthing parents, exclusive or shareable parental benefits in connection with the birth of the child born in the context of the project as well as welcome benefits relating to a parental project involving surrogacy.

For the purposes of this Act, the benefits provided for in the first paragraph shall be granted to a parent where the child’s filiation with regard to that parent is established in accordance with the provisions of the Civil Code.”

**34.** Section 8 of the Act is amended by replacing “gestation” in the first paragraph in the French text by “grossesse”.

**35.** The Act is amended by inserting the following subdivision after section 12.1:

“§4.2.—*Benefits relating to a surrogacy project*

“I.—*Benefits for the person who has agreed to give birth to a child in the context of a surrogacy project*

“**12.2.** The maximum number of weeks of exclusive benefits for the person who has agreed to give birth to a child in the context of a surrogacy project is 18 or, in the case of an election pursuant to section 18, 15. Payment of the benefits shall begin not earlier than the 16th week preceding the expected week of delivery.

A termination of pregnancy occurring after the nineteenth week of pregnancy gives entitlement to the same benefits as those provided for in the first paragraph.

Payment of the benefits ends not later than 20 weeks after the week of delivery or the week during which the termination of pregnancy occurs. However, payment may end after the expiry of the 20-week period, but may not exceed the 52nd week after the week of delivery or the week in which the termination of pregnancy occurs if, in the cases and for the time determined by regulation of the Conseil de gestion, the benefit period is extended.

“**12.3.** Where the filiation of the child born in the context of a surrogacy project is established in accordance with the rules of filiation by acknowledgement or by blood, the person who gave birth to the child may be entitled to the same benefits as those provided for in sections 10 to 10.3, as applicable.

Payment may begin the week of the birth of the child at the earliest if the child is not entrusted to the parents who are parties to the parental project involving surrogacy or, if the child was entrusted to them, the week in which the parents subsequently entrust the child to the person who gave birth to the child. Payment may not exceed the benefit period.

*“II. — Benefits for parents who are parties to the parental project involving surrogacy*

**“12.4.** The number of weeks of benefits to which parents who are parties to a parental project involving surrogacy may be entitled is

(1) 5 weeks of paternity benefits or exclusive benefits for each of the non-birthing parents or, in the case of an election pursuant to section 18, 3 weeks; and

(2) 32 weeks of shareable parental benefits or, in the case of an election pursuant to section 18, 25 weeks.

Payment may begin, at the earliest, the week in which the child is entrusted to one of the parents who is a party to the parental project involving surrogacy. It may not exceed the benefit period.

In the case of a birth outside Québec, payment may begin, at the earliest, five weeks before the child is entrusted to one of the parents who is a party to the parental project involving surrogacy. If the surrogacy project does not materialize, the benefits paid during the weeks preceding the moment at which the child was to be entrusted to one of the parents are not recoverable, up to the number of weeks provided for in this paragraph.

**“12.5.** For the birth of more than one child in the context of a single parental project involving surrogacy, five weeks of exclusive parental benefits shall be granted to each parent who is a party to the project or, in the case of an election pursuant to section 18, three weeks.

**“12.6.** Where only one parent who is a party to the parental project involving surrogacy is mentioned in the act of birth, except in cases of death referred to in section 17, five weeks of exclusive parental benefits shall be granted to that parent or, in the case of an election pursuant to section 18, three weeks.

**“12.7.** Where each of the parents who are parties to the parental project involving surrogacy has received eight weeks of shareable parental benefits or, in the case of an election pursuant to section 18, six weeks, the number of weeks of shareable parental benefits is increased by four weeks or, in the case of an election, by three weeks.

“III. — *Welcome benefits relating to a parental project involving surrogacy*

“**12.8.** The number of weeks of welcome benefits relating to a parental project involving surrogacy to which the parents who are parties to the project may be entitled is 13 weeks of shareable benefits or, in the case of an election pursuant to section 18, 12 weeks.

The second and third paragraphs of section 12.4 are applicable to the welcome benefits provided for in the first paragraph.”

**36.** Section 14 of the Act is replaced by the following section:

“**14.** The benefits payable under this plan, except benefits provided for in sections 7 and 12.2, shall be granted only if the parent ensures a regular presence to take care of the child whose birth or adoption gives entitlement to the payment of benefits.

If the parent no longer ensures a regular presence with the child, the child is deemed to be present with the parent until the end of the week in which separation occurs or, if the child is deceased, until the end of the second week following the week of the child’s death.

In the case of a surrogacy project, the fact that the child is entrusted by the person who gave birth to the child to the parents who are parties to the parental project involving surrogacy or the fact that the child is subsequently entrusted by those parents to the person who gave birth to the child, as the case may be, is deemed to be a separation.

If the child is hospitalized, the child is deemed to be present with the parent throughout the child’s hospitalization, except in the case where the child was born in the context of a surrogacy project and separation has occurred.

When two or more weeks of benefits provided for in section 7 or 12.2 are payable after the week of the child’s death, the presumption of presence provided for in the second paragraph does not apply to the mother or to the person who gave birth to the child. If only one of those weeks of benefits remains payable after the week of the child’s death, the child shall be deemed to be present with the mother or the person who gave birth to the child during the second week following the week of the child’s death, except if the child was born in the context of a surrogacy project and separation has occurred.

In the case of the birth of more than one child as a result of a single pregnancy or in the case of the adoption of more than one child at the same time, entitlement to exclusive benefits under sections 10.1, 11.1 and 12.5 ends as of the end of the week in which the parent ensures a regular presence with only one of those children or, in the case of a surrogacy project, as of the end of the week in which separation occurs. However, in the event of a child’s death, the child is deemed to be present with the parents until the end of the second week following the week of the child’s death, except in the case where the child was born in the context of a surrogacy project and separation has occurred.”



**37.** The Act is amended by inserting the following section after section 14:

**“14.1.** For the purposes of this Act, where a parent’s eligibility to benefits provided for in any of the subdivisions of Division I of Chapter II has been established while benefits provided for in another subdivision have already been received for the same event, the number of weeks of benefits payable is reduced by the number of weeks of benefits already received for each category of benefits.”

**38.** Section 15 of the Act is amended

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

“In the case of a surrogacy project, the birth of the child shall be considered a separate event for the person who gave birth to the child, except where the child is not entrusted to the parents who are parties to the parental project involving surrogacy and the child’s filiation is established in accordance with the rules of filiation by acknowledgement or by blood. In that case, the benefits granted are those provided for in sections 7, 9 and 10 to 10.3, as applicable.

In the case where the filiation of the child established with regard to the person who gave birth to the child is changed by the court in favour of a parent who is a party to the parental project involving surrogacy, the birth is considered a separate event for that parent and the benefits to which that parent may be entitled are those provided for in sections 12.4 to 12.8, as applicable.”;

(2) by adding the following sentence at the end of the third paragraph: “In addition, in the case of a surrogacy project, the weeks of benefits provided for in section 12.3 and those provided for in sections 12.4 to 12.8 may not be paid concurrently to the person who gave birth to the child and to the parents who are parties to the parental project involving surrogacy, except during the week in which separation occurs, if applicable.”

**39.** Section 16 of the Act is amended

(1) in the first paragraph,

(a) by replacing “The” by “Except in the case referred to in the third paragraph of section 15, the”;

(b) by replacing “and the weeks of welcome and support benefits relating to an adoption” by “, the weeks of welcome and support benefits relating to an adoption and the weeks of welcome benefits relating to a parental project involving surrogacy”;

(2) by adding the following paragraph at the end:

“In the case of a surrogacy project, shareable parental benefits may not be shared between the person who gave birth to the child and one of the parents who is a party to the parental project involving surrogacy, unless the filiation of the child has been established in their regard in accordance with the rules of filiation by acknowledgement or by blood and the child has not been entrusted to the parents who are parties to the parental project.”

**40.** Section 17 of the Act is amended

(1) in the first paragraph,

(a) by replacing “maternity or paternity benefits” by “benefits provided for in section 7 or 9 or in subparagraph 1 of the first paragraph of section 12.4”;

(b) by inserting “, except in the case referred to in the third paragraph of section 15” after “surviving parent”;

(2) in the third paragraph,

(a) by replacing “and of” by “, of”;

(b) by inserting “and of the welcome benefits relating to a parental project involving surrogacy” after “relating to an adoption”;

(c) by striking out “adoptive”;

(3) by inserting “or of the non-birthing parent” after “father” in the fourth paragraph;

(4) by adding the following paragraph at the end:

“In the case of a surrogacy project, despite the first paragraph and subject to the second paragraph of section 15, the weeks of exclusive benefits that have not been paid as at the date of death of the person who gave birth to the child shall not be added to the weeks to which the parents who are parties to the parental project involving surrogacy may be entitled. Similarly, the weeks of exclusive benefits that have not been paid as at the date of death of those parents or one of them shall not be added to the weeks to which the person who gave birth to the child may be entitled.”

**41.** Section 18 of the Act is amended

(1) in the first paragraph,

(a) by replacing “and paternity benefits” in subparagraph 1 by “benefits or exclusive benefits for the person, in connection with pregnancy or delivery, and the weeks of paternity benefits or exclusive benefits for the non-birthing parent”;

(b) by inserting the following subparagraph after subparagraph 1:

“(1.1) 70% for the weeks of exclusive benefits for the person who has agreed to give birth to a child, the weeks of paternity benefits or of exclusive benefits for each non-birthing parent, the first seven weeks of shareable parental benefits provided for in section 12.4, the weeks of exclusive parental benefits for each of the parents provided for in section 12.5 and the weeks of shareable parental benefits added under the first paragraph of section 17;”;

(c) by replacing “and 11.2” in subparagraph 3 by “, 11.2 and 12.6”;

(d) by inserting the following subparagraph after subparagraph 4:

“(4.1) 70% for the weeks of welcome benefits relating to a parental project involving surrogacy provided for in section 12.8;”;

(e) by replacing “and 11.3” in subparagraph 5 by “, 11.3 and 12.7”;

(f) by replacing “and 11” in subparagraph 6 by “, 11 and 12.4”;

(2) by inserting the following sentences after the first sentence of the last paragraph: “In the case of a surrogacy project, the election made by the person who gave birth to the child shall not apply to the application made by the parent who is a party to the parental project involving surrogacy, except in the case provided for in the second paragraph of section 15. Furthermore, the parent referred to in the third paragraph of section 15 shall not be bound by the election made by the other parent.”

**42.** Section 23 of the Act is amended

(1) by replacing “delivery” in the second paragraph by “birth”;

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

“In the case of a surrogacy project, unless it is extended in accordance with the regulations of the Conseil de gestion, the benefit period for the parents who are parties to the parental project involving surrogacy may not exceed the 78th week following the week in which the child is entrusted to one of the parents. Where the filiation of the child born in the context of the surrogacy project is established in accordance with the rules of filiation by acknowledgement or by blood, the benefit period for the person who gave birth to the child may not exceed the 78th week following, as applicable, the week of the child’s birth if the child was not entrusted to the parents who are parties to the parental project involving surrogacy or, if the child was entrusted to them, the week in which they subsequently entrust the child to the person who gave birth to the child, unless the benefit period is extended in accordance with the regulations of the Conseil de gestion.”

**43.** Section 24 of the Act is amended by replacing “12.1” in paragraph 3 by “12.8”.

**44.** Section 84 of the Act is amended by replacing “the following bodies of the Government:” in the second paragraph by “the following department and bodies of the Government: the Ministère de la Santé et des Services sociaux,”.

#### CODE OF CIVIL PROCEDURE

**45.** Article 303 of the Code of Civil Procedure (chapter C-25.01) is amended by inserting the following subparagraph after subparagraph 6 of the first paragraph:

“(6.1) the filiation of a child born of a parental project involving surrogacy;”.

**46.** The Code is amended by inserting the following article after article 412:

**“412.1.** An action to claim an indemnity by a victim of a sexual assault to help them provide for the needs of the child born as a result of the assault may be joined with an action to claim or contest the filiation of that child.

An application to deprive the person who committed the assault of parental authority may be joined with an action to claim the filiation of such a child with regard to the person who committed the assault.”

**47.** The Code is amended by inserting the following chapter after article 431:

#### “CHAPTER IV.1

#### “APPLICATIONS RELATING TO THE FILIATION OF A CHILD BORN OF A PARENTAL PROJECT INVOLVING SURROGACY

**“431.0.1.** Applications relating to the filiation of a child born of a parental project involving surrogacy are presented jointly by the parties to the surrogacy agreement or by one of them.

Such applications must state the child’s name, date and place of birth, place of residence and domicile, nationality and status as a Canadian citizen or permanent resident.

They must also state the name of the woman or the person who gave birth to the child, their place of residence and domicile, nationality and status as a Canadian citizen or permanent resident, if applicable.

Applications must contain the same information concerning the person alone or the spouses who formed a parental project involving surrogacy.

**“431.0.2.** Applications relating to the filiation of a child born of a parental project involving surrogacy in which the woman or the person who gave birth to the child is domiciled outside Québec are notified to the Minister of Health and Social Services and the latter may intervene as of right as regards those applications.

**“431.0.3.** To be admissible, an application relating to the filiation of a child born of a parental project involving surrogacy in which all the parties are domiciled in Québec must be filed together with the information determined by government regulation concerning the profile of the woman or the person who gave birth to the child and of any other party to the surrogacy agreement who provides their reproductive material.

**“431.0.4.** To be admissible, an application for recognition of a filiation established outside Québec must be filed together with the child’s foreign act of birth or the decision establishing the filiation and the foreign legislation. It must also be accompanied by the certificate of compliance for the project issued by the Minister of Health and Social Services. An application to claim status must also be attached, if applicable.”

**48.** The Code is amended by inserting the following article after article 456.1:

**“456.2.** The court clerk notifies every judgment concerning the filiation of a child born of a parental project involving surrogacy in which the woman or the person who gave birth to the child is domiciled outside Québec to the Minister of Health and Social Services.”

**49.** The Code is amended by inserting the following article after article 457:

**“457.1.** The court clerk sends to the Minister of Employment and Social Solidarity, so that the Minister may file it in the register kept under article 542.10 of the Civil Code, the judgment regarding the filiation of a child born of a parental project involving surrogacy in which all the parties involved are domiciled in Québec, as soon as the judgment has become final. The court clerk also sends to the Minister, for the same purpose, the information filed with the application under article 431.0.3.”

**50.** Article 696 of the Code is amended by inserting “or the payment of the indemnity referred to in article 542.33 or 542.34 of the Civil Code” after “compensatory allowance” in the third paragraph.

**51.** Article 698 of the Code is amended by replacing “or for the payment of a support debt or a compensatory allowance” in the fifth paragraph by “or for the payment of a support debt, the indemnity referred to in article 542.33 or 542.34 of the Civil Code or a compensatory allowance”.

## ACT RESPECTING LABOUR STANDARDS

**52.** Section 81.1 of the Act respecting labour standards (chapter N-1.1) is replaced by the following section:

**“81.1.** An employee may be absent from work for five days at the birth of the employee’s child, including a child born in the context of a surrogacy project, the adoption of a child or where there is a termination of pregnancy

in or after the twentieth week of pregnancy. The first two days of absence shall be remunerated.

The employee who gave birth to a child in the context of a surrogacy project is entitled to the leave provided for in the first paragraph.

The leave may be divided into days at the request of the employee. It may not be taken more than 15 days after the child arrives at the residence of his father or mother or of one of his parents or, if applicable, after the termination of pregnancy. In the case of a surrogacy project, the 15-day period applies, for the employee who gave birth to the child, from the birth of the child and, for the employee who is a party to the parental project involving surrogacy, from the moment the child was entrusted to the employee.

The employee must advise the employer of such an absence as soon as possible.”

**53.** Section 81.2 of the Act is replaced by the following section:

**“81.2.** An employee is entitled to a paternity leave or leave for the non-birthing parent of not more than five consecutive weeks, without pay, on the birth of the employee’s child, including a child born in the context of a parental project involving surrogacy.

An employee who adopts a child is entitled to the leave provided for in the first paragraph in connection with that adoption.

The leave shall not begin before the week of the birth of the child or, in the case of a parental project involving surrogacy or of an adoption procedure, the week the child is entrusted to the employee or the week the employee leaves work to travel outside Québec to be entrusted with the child. The leave shall not end later than 78 weeks after the week of the birth or, in the case of an adoption or a parental project involving surrogacy, 78 weeks after the week the child was entrusted to the employee.”

**54.** Section 81.2.1 of the Act is amended

(1) by replacing “paternity leave” in the first paragraph by “leave provided for in section 81.2”;

(2) in the second paragraph,

(a) by inserting “or the moment the child is entrusted to the employee” after “birth of the child”;

(b) by replacing “date” by “date of birth or of that moment”.

**55.** Section 81.10 of the Act is amended by replacing “of a newborn child, and” by “or the parents of a newborn child, including a child born in the context of a parental project involving surrogacy, and”.

**56.** Section 81.11 of the Act is replaced by the following section:

**“81.11.** Parental leave may not begin before,

(1) in the case of a birth, the week of the newborn’s birth or, if the birth occurs in the context of a parental project involving surrogacy, the week the child is entrusted to the employee who is a party to the project or the week the employee leaves work to travel outside Québec to be entrusted with the child; or

(2) in the case of an adoption, the week the child is entrusted to the employee in accordance with the adoption procedure or the week the employee leaves work to travel outside Québec to be entrusted with the child.

It shall end not later than 85 weeks after the week of the birth or, in the case of an adoption or of a parental project involving surrogacy, 85 weeks after the week the child was entrusted to the employee.

However, in the cases and subject to the conditions prescribed by regulation of the Government, parental leave may end at the latest 104 weeks after the birth or, in the case of an adoption or of a parental project involving surrogacy, 104 weeks after the week the child was entrusted to the employee.”

**57.** Section 81.12 of the Act is amended

(1) by replacing “the employee must stay with the newborn child or newly adopted child, or with the mother” by “the employee must stay with the newborn child, including a child born in the context of a parental project involving surrogacy if the child has been entrusted to the employee, with the newly adopted child or, if applicable, with the mother or the person who gave birth”;

(2) by replacing “the state of health of the child or of the mother” by “their state of health”.

**58.** Section 89 of the Act is amended

(1) by replacing “du salarié” in paragraph 3 in the French text by “de la personne salariée”;

(2) in paragraph 4,

(a) by replacing “d’un salarié” in the introductory clause in the French text by “de la personne salariée”;

(b) by replacing “du salarié occupé” in subparagraphs *c*, *d*, *e* and *f* in the French text by “de la personne salariée occupée”;

(c) by replacing “du salarié” in subparagraph *g* in the French text by “de la personne salariée”;

(d) by replacing “workers” in subparagraph *h* by “employees”;

(e) by replacing “de salariés visés” in subparagraph *i* in the French text by “de personnes salariées visées”;

(3) by replacing paragraph 6 by the following paragraph:

“(6) the other benefits an employee may receive during an absence for any of the reasons provided for in section 79.1 or in connection with a leave provided for in section 81.2, 81.4 or 81.10, which may vary according to the nature of the leave or, where applicable, its length;”;

(4) by replacing “of adoption, 104 weeks after the child was entrusted to the employee” in paragraph 6.1 by “of an adoption or a parental project involving surrogacy, 104 weeks after the child was entrusted to the employee”;

(5) by replacing “maternity, paternity or parental leave” in paragraph 6.1.1 by “leave provided for in section 81.2, 81.4 or 81.10”.

## NOTARIES ACT

**59.** Section 40 of the Notaries Act (chapter N-3) is amended by adding the following subparagraph before subparagraph 1 of the second paragraph:

“(0.1) the woman or the person who has agreed to give birth to a child in the context of a parental project involving surrogacy;”.

**60.** Section 44 of the Act is amended by inserting “, unless the act is a surrogacy agreement, in which case the disbursements and fees shall be borne by the person alone or the spouses who formed the parental project” after “fees”.

## ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES

**61.** Section 19 of the Act respecting health services and social services (chapter S-4.2) is amended by adding the following paragraph at the end:

“(22) for the purposes of section 43.1 of the Act respecting clinical and research activities relating to assisted procreation (chapter A-5.01).”

**62.** The Act is amended by inserting the following section after section 21:

**“21.1.** The person alone or the spouses who formed a parental project involving surrogacy and who need to have the filiation of the child established in their regard in accordance with the Civil Code are entitled to obtain the information contained in the certificate, referred to in article 541.18 of that Code, attesting that the woman or person who gave birth to the child is incapable of giving consent.”



## ACT TO ENSURE THE PROTECTION OF TRAINEES IN THE WORKPLACE

**63.** Section 15 of the Act to ensure the protection of trainees in the workplace (2022, chapter 2) is amended

(1) by inserting “including a child born in the context of a surrogacy project,” after “their child,” in the first paragraph;

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

“A trainee who gave birth to a child in the context of a surrogacy project is entitled to the leave provided for in the first paragraph.”;

(3) by adding the following sentence at the end of the last paragraph: “In the case of a surrogacy project, the 15-day period applies, for the trainee who gave birth to a child, from the birth of the child and, for the trainee who is a party to the parental project involving surrogacy, from the moment the child is entrusted to the trainee.”

## TRANSITIONAL AND FINAL PROVISIONS

**64.** The rules concerning the filiation of a child born of a pregnancy that began before (*insert the date of assent to this Act*) and that results from a surrogacy project are those that existed before that date.

**65.** Any application for an order of placement for the purposes of an adoption based on special consent whose object is to carry a surrogacy project to completion is inadmissible if the pregnancy began after (*insert the date that precedes the date of assent to this Act*).

**66.** The following rules complement the rules applicable to the filiation of a child born of a surrogacy project in which the parties are domiciled in Québec, where the pregnancy began during the period from (*insert the date of assent to this Act*) to (*insert the date that is nine months minus one day after the date of assent to this Act*) or on an earlier date set by the Government under paragraph 1 of section 82:

(1) the child’s filiation is governed by the rules of filiation by acknowledgement or by blood. However, the presumption with regard to the spouse of the woman or the person who gave birth to the child does not apply. Furthermore, no bond of filiation may be established with regard to the person who has agreed to provide their reproductive material as a third person for the purposes of the parental project;

(2) the court may change the child’s filiation, unless the woman or the person who gave birth to the child refuses to have their bond of filiation with regard to the child be deemed never to have existed and to a bond of filiation being

established with regard to each of the parties to the parental project. An application for change must be presented before the court within 60 days of the birth, except in exceptional circumstances;

(3) if the court finds the parental project to be compliant, it confirms the existence of the project and changes the child's filiation to establish it exclusively with regard to each of the parties to the project. In such a case, the child's filiation is deemed to be established with regard to them since the birth of the child; and

(4) if the court finds otherwise, it declares the parental project null and dismisses the application.

For the purposes of this section, article 541.7 of the Civil Code, enacted by section 18, is to be read by striking out "in order for the rules allowing the legal or judicial establishment of the child's filiation to apply to the parental project involving surrogacy".

**67.** Where a child is born of a surrogacy project in which the woman or the person who has agreed to give birth to the child is domiciled outside Québec and the pregnancy began during the period from (*insert the date of assent to this Act*) to (*insert the date that is one year minus one day after the date of assent to this Act*) or on an earlier date set by the Government under paragraph 2 of section 82, the first paragraph of article 541.28 of the Civil Code, enacted by section 18, is to be read as follows:

"The parties to the parental project must have been domiciled in Québec for at least one year prior to entering into the surrogacy agreement."

**68.** Until the date of coming into force of the first regulation made by the Government under the first paragraph of article 541.3 of the Civil Code, enacted by section 18, that paragraph is to be read as follows:

"The contribution made to the parental project by the woman or the person who has agreed to give birth to a child must be gratuitous. However, the woman or person is entitled to the reimbursement of expenses and to compensation, where applicable, for loss of work income as allowed by the Reimbursement Related to Assisted Human Reproduction Regulations (SOR/2019-193) adopted under the Assisted Human Reproduction Act (Statutes of Canada, 2004, chapter 2). If domiciled outside Québec, the woman or person is also entitled to reimbursement or payment of certain expenses and to compensation for loss of work income provided for by the law of the State of their domicile."

**69.** For the purposes of the judicial recognition of an act of birth drawn up abroad or of a foreign decision referred to in article 541.34 of the Civil Code, enacted by section 18, the provisions of articles 541.27, 541.29, 541.31 to 541.33 and 541.35 and of the third and fourth paragraphs of article 541.36 of the Code, enacted by section 18, do not apply if

(1) the pregnancy results from a surrogacy project and began during the period from *(insert the date of assent to this Act)* to *(insert the date that is one year minus one day after the date of assent to this Act)* or on an earlier date set by the Government under paragraph 2 of section 82;

(2) the judicial recognition proceedings are in progress on *(insert the date that is nine months minus one day after the date of assent to this Act)* or any earlier date set by the Government under paragraph 2 of section 82; or

(3) the judicial recognition proceedings are instituted within 60 days after *(insert the date that is nine months minus one day after the date of assent to this Act)* or any earlier date set by the Government under paragraph 2 of section 82.

**70.** Until *(insert the date that is two years minus one day after the date of assent to this Act)* or any earlier date determined by the Government under paragraph 3 of section 82, the second paragraph of article 542 of the Civil Code is to be read as follows:

“However, if the health of the person born of procreation involving the contribution of a third person, of that third person or of a close relative genetically linked to them warrants it, the court may allow the necessary medical information to be sent, confidentially, to the medical authorities concerned.”

**71.** Within one year after *(insert the date that is two years after the date of assent to this Act)* or any earlier date determined by the Government under paragraph 3 of section 82, every centre for assisted procreation within the meaning of the Act respecting clinical and research activities relating to assisted procreation (chapter A-5.01) must send the following information to the Minister of Employment and Social Solidarity for entry in the register kept in accordance with article 542.10 of the Civil Code, enacted by section 19:

(1) the name of any person who provided their reproductive material in Québec before the date referred to in the first paragraph, and whose reproductive material was used to contribute to the assisted procreation of a child, the information making it possible to contact that person, and the information concerning the profile of that person collected at the time the material was provided; and

(2) where reproductive material from outside Québec was used to contribute to the assisted procreation of a child before the date referred to in the first paragraph, the name and location of the enterprise from which the reproductive material was obtained.

The centre must also send to the Minister of Employment and Social Solidarity, within the same time, the information it holds and that makes it possible to connect the information sent under the first paragraph to the child conceived using that material, including the name of the persons who used the reproductive material.

**72.** The person alone or the spouses who formed a parental project and who, during the period from (*insert the date of assent to this Act*) to (*insert the date that is two years after the date of assent to this Act*) or any earlier date determined by the Government under paragraph 3 of section 82, used reproductive material from outside Québec in the context of assisted procreation activities carried out in a centre for assisted procreation must, once the information concerning the profile of the person who provided the reproductive material is known by them, send it to the registrar of civil status together with the declaration of birth of the child conceived using that material.

The registrar of civil status keeps the information and, in the year after (*insert the date that is two years after the date of assent to this Act*) or any earlier date determined by the Government under paragraph 3 of section 82, enters it together with the name and date of birth of the child to whom the information relates in the register kept by the Minister of Employment and Social Solidarity in accordance with article 542.10 of the Civil Code, enacted by section 19.

**73.** From (*insert the date of assent to this Act*) to (*insert the date that is two years minus one day after the date of assent to this Act*) or any earlier date determined by the Government under paragraph 3 of section 82, the office of the court that rendered a judgment relating to the filiation of a child born of procreation involving surrogacy where all parties are domiciled in Québec keeps the information concerning the profile of the woman or the person who gave birth to the child that was filed together with the application relating to the filiation of the child in accordance with article 431.0.3 of the Code of Civil Procedure (chapter C-25.01), enacted by section 47.

In the year following the end of the period referred to in the first paragraph, the court office sends any judgment relating to the filiation of such a child that has become final, together with the information kept, to the Minister of Employment and Social Solidarity so that the Minister may deposit the judgments and enter the information in the register kept in accordance with article 542.10 of the Civil Code, enacted by section 19 of this Act.

**74.** From (*insert the date that is nine months after the date of assent to this Act*) to (*insert the date that is two years minus one day after the date of assent to this Act*) or any earlier date determined by the Government under paragraph 3 of section 82, the registrar of civil status keeps the authentic copy of any surrogacy agreement accompanying the declaration of birth of a child made to the registrar in accordance with article 113 of the Civil Code, amended by section 1 of this Act.

In the year following the end of that period, the registrar deposits the authentic copies of the agreements so kept in the register kept by the Minister of Employment and Social Solidarity in accordance with article 542.10 of the Civil Code, enacted by section 19 of this Act, and enters the name and date of birth of the child to whom each such agreement relates.

**75.** From (*insert the date that is one year after the date of assent to this Act*) to (*insert the date that is two years minus one day after the date of assent to this Act*) or any earlier date determined by the Government under paragraph 3 of section 82, the Minister of Health and Social Services keeps the information concerning the profile of the woman or the person who gave birth to a child born of a parental project involving surrogacy in which the woman or the person is domiciled outside Québec that is deposited with the Minister under the third paragraph of article 541.32 of the Civil Code, enacted by section 18.

In the year following the end of that period, the Minister deposits every surrogacy agreement received under the third paragraph of article 541.32 of the Civil Code, enacted by section 18, and every judgment that has become final and that the Minister received under article 456.2 of the Code of Civil Procedure, enacted by section 48, in the register kept by the Minister of Employment and Social Solidarity in accordance with article 542.10 of the Civil Code, enacted by section 19, and enters the kept information in the register.

**76.** Despite article 542.1 of the Civil Code, enacted by section 19 of this Act, the confidentiality of the name of the person who provided their reproductive material in Québec before the date of coming into force of that article in the context of assisted procreation activities is preserved. However, that person may, after that date, express their will to the authority designated by law in accordance with article 542.10 of the Civil Code, enacted by section 19 of this Act, as to the communication of their name and of the information making it possible to contact them to the person conceived using that person's contribution or, if applicable, to the descendants in the first degree of the person so conceived.

Unless consent concerning the other information has been given, only the information that concerns the profile of the person who provided their reproductive material that was collected at the time the material was provided and that does not make it possible to identify the person is to be communicated, insofar as it is available, to the person conceived using that contribution or, if applicable, to the descendants in the first degree of the person so conceived.

**77.** Until the date of coming into force of the first regulation made by the Government under the first paragraph of article 541.13 of the Civil Code, enacted by section 18, for the purposes of the transitional provisions and those enacted by this Act, the profile of the third person who contributed to the procreation of a child includes

- (1) the following general information:
  - (a) their age;
  - (b) their ethnic origin;
  - (c) their civil status;

(d) their level of education, as well as their diplomas and field of studies, if applicable; and

(e) their profession, if applicable;

(2) the following information regarding physical characteristics:

(a) their height;

(b) their skin colour;

(c) their eye colour; and

(d) their hair colour and texture; and

(3) information relating to their personality traits, special skills, preferences and hobbies, if applicable.

**78.** Articles 542.22, 542.24 and 542.33 of the Civil Code, enacted by section 19 of this Act, and article 658.1 of the Civil code, enacted by section 25 of this Act, apply regardless of the date on which the sexual assault was committed.

**79.** Section 742.1 of the Civil Code, enacted by section 26 of this Act, applies regardless of the date on which the sexual assault was committed and of the date on which the testamentary provisions were drafted.

**80.** Articles 658.1 and 742.1 of the Civil Code, enacted by sections 25 and 26, respectively, only apply to the succession of a person who died after (*insert the date that precedes the date of assent to this Act*).

**81.** Subparagraph 5 of the first paragraph of section 2 of the Act respecting parental insurance (chapter A-29.011), amended by section 33 of this Act, sections 12.2 to 12.8 of the Act respecting parental insurance, enacted by section 35 of this Act, section 14 of the Act respecting parental insurance, replaced by section 36 of this Act, section 14.1 of the Act respecting parental insurance, enacted by section 37 of this Act, and sections 15, 16, 17, 18, 23 and 24 of the Act respecting parental insurance, amended by sections 38 to 43 of this Act, apply only to a birth resulting from a surrogacy project that occurred from (*insert the date that is nine months after the date of assent to this Act*), unless it is shown that the pregnancy began after (*insert the date that precedes the date of assent to this Act*).

**82.** The provisions of this Act come into force on (*insert the date of assent to this Act*), except

(1) paragraph 2 of section 1, paragraph 3 of section 3, section 18 insofar as it enacts articles 541.11 to 541.21 of the Civil Code and sections 29, 30, 59, 60 and 62, which come into force on (*insert the date that is nine months after the date of assent to this Act*) or on an earlier date to be set by the Government;

(2) section 18 insofar as it enacts articles 541.27, 541.29, 541.31 to 541.33 and 541.35 and the third and fourth paragraphs of article 541.36 of the Civil Code, section 47 insofar as it enacts article 431.0.2 and the second sentence of article 431.0.4 of the Code of Civil Procedure, and section 48, which come into force on (*insert the date that is one year after the date of assent to this Act*) or on an earlier date to be set by the Government;

(3) section 19 insofar as it enacts articles 542.1 to 542.18 of the Civil Code, sections 28 and 31, paragraph 2 of section 32 and sections 49 and 61, which come into force on (*insert the date that is two years after the date of assent to this Act*) or on an earlier date to be set by the Government;

(4) sections 17 and 23 insofar as they repeal articles 539.1 and 578.1 of the Civil Code, which come into force on the date to be set by the Government.

