



NATIONAL ASSEMBLY OF QUÉBEC

FIRST SESSION

FORTY-THIRD LEGISLATURE

Bill 591

An Act mainly to reinforce Members' oversight of government action by recognizing their right to visit administrative institutions

Introduction

**Introduced by
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Member for Sherbrooke**

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EXPLANATORY NOTES

This bill enshrines the right of each Member to visit the administrative institution of the Member's choice to reinforce parliamentary oversight of government action. The bill also guarantees the Member's right to speak confidentially with any person and to be accompanied, during the visit, by a member of the Member's staff, an expert and a journalist.

The bill requires the administrative institution that a Member has required to be visited to ensure that the Member is able to exercise the Member's right to visit under the best conditions. It also provides that the administrative institution may not refuse to allow the visit or impose restrictions on it except for serious reasons concerning security.

The bill also determines the conditions for exercising the right with respect to the frequency of visits, the prior procedure, the terms for the reception of the delegation and the conduct of the visit.

Lastly, the bill establishes certain remedies, and a framework concerning accompaniment by a journalist, the processing of the information obtained and the conduct of interviews. The bill also includes miscellaneous and final provisions.

Bill 591

AN ACT MAINLY TO REINFORCE MEMBERS' OVERSIGHT OF GOVERNMENT ACTION BY RECOGNIZING THEIR RIGHT TO VISIT ADMINISTRATIVE INSTITUTIONS

AS the National Assembly has the power of supervision over all the acts of the Government and of its departments and agencies;

AS this power of supervision is exercised, in particular, when Members visit these institutions;

AS these visits allow Members to observe a situation, gather information and speak with users, occupants and staff members of the administrative institutions to, in particular, report cases of violation of the law or breaches of ethics;

AS administrative institutions must ensure that these visits are conducted in conditions that guarantee Members are able to carry out their role as overseers appropriately;

AS it is expedient to enshrine the right of each Member to visit the administrative institution of the Member's choice in order to carry out the Member's duties without obstacle;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

RIGHT TO VISIT

DIVISION I

GENERAL PROVISIONS

1. Every Member has the right, in the carrying out of the Member's duties, to visit the administrative institutions listed in Schedule I.

The administrative institution must consent to the visit and organize it in a way that ensures that the Member is able to exercise the right under the best conditions, except if there are serious reasons concerning security that justify the partial restriction of or complete refusal to allow the visit.

2. The Member has the right, during the visit, to speak with any person, except for members of the Conseil exécutif, according to the terms ensuring the confidentiality of their discussions.

3. The Member may be accompanied by a person appointed pursuant to section 124.1 of the Act respecting the National Assembly (chapter A-23.1), an expert whose presence the Member considers useful and a journalist within the meaning of the Act to protect the confidentiality of journalistic sources (chapter P-33.1).

4. The right to visit may be exercised only once every three months per administrative institution, for a maximum period of two consecutive days during the regular work hours of the institution.

DIVISION II

CONDITIONS FOR EXERCISING THE RIGHT

§1.—Prior procedure

5. A Member who wishes to exercise the right to visit must give written notice, at least 10 working days prior to the date of the visit, to the person having the highest authority within the administrative institution.

The prior notice includes the date of the visit, its estimated duration, the names and titles of the members of the delegation and the names or titles of the persons the Member wishes to speak with. It also provides a brief description of the premises, equipment and facilities to which access is requested.

6. The person having the highest authority within the administrative institution confirms the visit in writing or, if the person partly restricts or completely refuses to allow the visit, provides the reasons justifying the decision.

In the event of a complete refusal to allow the visit, the person notifies the President of the National Assembly.

§2.—Reception of the delegation

7. The Member and the persons accompanying the Member must be received by at least two members of the management staff of the administrative institution who have considerable experience with the institution.

8. The members of the delegation must comply with the standard security measures applicable to visitors.

They may nonetheless keep the equipment necessary for the proper conduct of the visit, in particular audiovisual recording devices.

The delegation's attention is drawn to the confidential nature of certain information that comes to its knowledge and to the need for certain security measures to be taken in locations where they are required.

9. A staff member of the administrative institution is made available to the delegation to act as a guide during the visit.

§3.— *Conduct of the visit*

10. The delegation must be able to move freely in the administrative institution, depending on the premises, equipment and facilities targeted by the Member in the prior notice and that the administrative institution has consented to being visited.

11. Photography and filming are generally authorized but may be prohibited in certain locations for serious reasons concerning security or the protection of confidential information.

CHAPTER II

REMEDY

12. A Member whose visit was partly restricted or completely refused to be allowed may contest the decision of the administrative institution before the Superior Court.

The application for review is heard and decided by preference.

The Court upholds the decision of the administrative institution or directs the institution to receive the Member under the conditions it considers necessary.

13. The fact that an administrative institution partly restricts a Member's visit or completely refuses to allow it without serious reasons concerning security is a breach of the privileges of the National Assembly.

The Member may impugn the conduct of the person having the highest authority within the administrative institution by using the procedure designed to uphold the integrity of Parliament and of the Members of Parliament provided for in Standing Orders 315 to 327 of the Standing Orders of the National Assembly.

CHAPTER III

FRAMEWORK FOR ACCOMPANIMENT BY A JOURNALIST

14. The journalist may in no case use the journalist's presence in the administrative institution for purposes not related to the visit and may not conduct interviews with the persons present.

The journalist may record only what the journalist has been able to observe in the presence of the Member.

15. The journalist may not access the premises, facilities and equipment except in the presence of the Member.

The journalist must leave the administrative institution's premises at the same time as the Member.

CHAPTER IV

FRAMEWORK FOR PROCESSING THE INFORMATION OBTAINED AND FOR INTERVIEWS

16. The Member informs the person whom the Member has required to be interviewed of the protective measures provided under this chapter.

17. The interview between the Member and the person questioned is held without the presence of the journalist and the staff members of the administrative institution and it may not be recorded using an audiovisual capture device.

18. The person questioned may communicate any information.

The first paragraph applies despite the provisions concerning the communication of information provided for in the Act respecting the protection of personal information in the private sector (chapter P-39.1) and the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1), except the provisions in sections 28, 28.1, 29 and 33 of the latter Act. It also applies despite any other communication restrictions under a law and any duty of confidentiality or loyalty that may be binding on the person, including toward an employer or, if applicable, a client.

However, the lifting of professional secrecy authorized under this section does not apply to professional secrecy between a lawyer or a notary and a client or to the professional secrecy of health professionals.

19. The personal information disclosed remains confidential. The Member must take the security measures necessary to ensure its protection. The Member may not communicate the information without the consent of the person concerned.

In the event of a confidentiality incident within the meaning of section 63.9 of the Act respecting Access to documents held by public bodies and the Protection of personal information that presents a risk of serious injury, the Member must, with all due dispatch, notify the Commission d'accès à l'information. The Member must also notify any person whose personal information is concerned by the incident, failing which the Commission may order the Member to do so. The Member may also notify any person or body that could reduce the risk by communicating to the person or body only the personal information necessary for that purpose without the consent of the person concerned.

20. If the Member considers that the information that comes to the Member's knowledge is necessary for the purposes of prosecuting an offence under an Act, the Member forwards the information to a body responsible for the prevention, detection or repression of crime or statutory offences, including a police force or professional order.

If the information may be disclosed under section 26 of the Anti-Corruption Act (chapter L-6.1), the Member forwards it, as soon as possible, to the Anti-Corruption Commissioner.

Likewise, the Member communicates the information to the inspector general of Ville de Montréal, the Commission municipale du Québec or the Autorité des marchés publics, as applicable, under section 57.1.13 of the Charter of Ville de Montréal, metropolis of Québec (chapter C-11.4), section 20 of the Municipal Ethics and Good Conduct Act (chapter E-15.1.0.1) or section 56 of the Act respecting the Autorité des marchés publics (chapter A-33.2.1).

If the Member considers it appropriate, the Member notifies the person who made the disclosure that the information has been communicated.

CHAPTER V

MISCELLANEOUS AND FINAL PROVISIONS

21. Every person who has reasonable grounds to believe that a Member has violated a provision of the Code of ethics and conduct of the Members of the National Assembly (chapter C-23.1) during a visit may request that the Ethics Commissioner conduct an inquiry into the matter. Chapters III and IV of the Code apply, with the necessary modifications.

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

SCHEDULE I

(Section 1)

ADMINISTRATIVE INSTITUTIONS

- (1) government departments;
- (2) budget-funded bodies, bodies other than budget-funded bodies and government enterprises listed in Schedules 1 to 3 to the Financial Administration Act (chapter A-6.001), excluding the Conseil de la magistrature, but including the persons listed in those schedules, as well as bodies whose capital forms part of the domain of the State;
- (3) bodies and persons whose personnel is appointed in accordance with the Public Service Act (chapter F-3.1.1), excluding the National Assembly, but including the services referred to in Divisions III and V of Chapter IV of the Act respecting the National Assembly (chapter A-23.1) and the persons designated by that Act;
- (4) government agencies listed in Schedule C to the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (chapter R-8.2), including the persons listed in that schedule, but excluding regional legal aid centres and the Public Protector;
- (5) municipalities, metropolitan communities, intermunicipal boards and municipal and regional housing bureaus, excluding municipalities governed by the Cree Villages and the Naskapi Village Act (chapter V-5.1) or the Act respecting Northern villages and the Kativik Regional Government (chapter V-6.1);
- (6) public transit authorities, the Autorité régionale de transport métropolitain and any other operator of a shared transportation system;
- (7) school service centres established under the Education Act (chapter I-13.3), the Commission scolaire du Littoral established by the Act respecting the Centre de services scolaire du Littoral (1966–1967, chapter 125), the Comité de gestion de la taxe scolaire de l'île de Montréal, general and vocational colleges established under the General and Vocational Colleges Act (chapter C-29), and university-level educational institutions listed in paragraphs 1 to 11 of section 1 of the Act respecting educational institutions at the university level (chapter E-14.1);
- (8) public institutions governed by the Act respecting health services and social services (chapter S-4.2), excluding public institutions referred to in Parts IV.1 and IV.3 of that Act, joint procurement groups referred to in section 435.1 of that Act, and health communication centres referred to in the Act respecting pre-hospital emergency services (chapter S-6.2);

(9) bodies the majority of whose members are appointed by the National Assembly;

(10) childcare centres, home educational childcare coordinating offices and subsidized day care centres governed by the Educational Childcare Act (chapter S-4.1.1);

(11) institutions accredited for the purposes of subsidies under the Act respecting private education (chapter E-9.1) and institutions whose instructional program is the subject of an international agreement within the meaning of the Act respecting the Ministère des Relations internationales (chapter M-25.1.1);

(12) private institutions under agreement, intermediary resources and family-type resources governed by the Act respecting health services and social services; and

(13) mandataries of the State.

