



NATIONAL ASSEMBLY OF QUÉBEC

FIRST SESSION

FORTY-THIRD LEGISLATURE

Bill 56

**An Act respecting family law reform
and establishing the parental union
regime**

Introduction

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

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EXPLANATORY NOTES

The purpose of this bill is to establish the parental union for de facto spouses who are the parents of the same child, born or adopted after the coming into force of this Act. The Civil Code is therefore amended, in particular to provide that formation of a parental union entails the establishment of a parental union patrimony consisting of certain property of the spouses, including the family residence. The Civil Code is also amended to prescribe the rules that apply to partition of that patrimony in the event that the union ends. The bill provides that the spouses may, by mutual agreement, change the composition of the parental union patrimony or completely withdraw from its application.

Various protective measures are proposed should the parental union spouses separate. The bill proposes, among other things, that the rules applicable to married or civil union spouses and relating to the protection and award of the family residence be extended to parental union spouses.

The bill also provides that spouses are given the right, after the parental union ends, to apply to the court for a compensatory allowance if they believe they have been impoverished after having contributed to the enrichment of the patrimony of the other spouse.

The bill also proposes that spouses are not to prescribe against each other during their parental union.

In matters of succession, the bill proposes, in particular, to amend the rules on legal devolution to allow a spouse who was in a parental union to inherit from their deceased spouse where the spouses had been sharing a community of life for more than one year at the time of death.

The Service administratif de rajustement des pensions alimentaires pour enfants, administered by the Commission des services juridiques, is mandated to offer parents a child support calculation service to help them determine, without court intervention, the amount of the child support.

The Code of Civil Procedure is amended to allow the special clerk to homologate any agreement between parental union spouses concerning the consequences of the end of their union.

The bill proposes to impose on judges the obligation to award damages in cases of judicial violence. The court must also take into account the history of the proceedings between the parties, the impact of their repeated and disputed nature on the former spouse and on the child, and whether there is an equal balance of power between the parties, in particular where there have been incidents of family violence, which includes spousal violence.

The chief justice of the Superior Court and chief judge of the Court of Québec must, in the interests of the parties and of the child, favour having one and the same judge take charge of a court record.

Judges of the Superior Court seized of a case in a family matter are also allowed to obtain, among other things, a copy of the decision rendered in the Court of Québec in a youth protection matter.

Lastly, the bill contains a transitional provision and a final provision.

LEGISLATION AMENDED BY THIS BILL:

- Civil Code of Québec;
- Act to promote access to justice through the establishment of the Service administratif de rajustement des pensions alimentaires pour enfants (chapter A-2.02);
- Code of Civil Procedure (chapter C-25.01);
- Youth Protection Act (chapter P-34.1).

Bill 56

AN ACT RESPECTING FAMILY LAW REFORM AND ESTABLISHING THE PARENTAL UNION REGIME

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CIVIL CODE OF QUÉBEC

- 1.** Article 89 of the Civil Code of Québec is amended by replacing “The married or civil union spouse of or the tutor to the absentee” in the first paragraph by “The absentee’s married spouse, civil union spouse, parental union spouse or tutor”.
- 2.** Article 96 of the Code is amended by inserting “or the time at which the right to partition of the parental union patrimony arises” after both occurrences of “civil union regime”.
- 3.** The Code is amended by inserting the following title after article 521.19:

“TITLE I.2

“PARENTAL UNION

“CHAPTER I

“GENERAL PROVISIONS

“**521.20.** A parental union is formed upon *de facto* spouses becoming the father and mother or the parents of the same child. The same applies where the father and mother or the parents of the same child become *de facto* spouses or become *de facto* spouses again.

Where one of the spouses is married or in a civil union or a parental union, a parental union with a new spouse is formed only from the date of the dissolution of the marriage or civil union or, as the case may be, of the end of the parental union.

Persons who are, in relation to each other, an ascendant, a descendant, a brother or a sister cannot form a parental union.

Within the meaning of this article, *de facto* spouses are two persons who share a community of life and who represent themselves publicly as a couple, regardless of how long they have shared a community of life. Persons who

cohabit and are the father and mother or the parents of the same child are presumed to share a community of life.

“521.21. The spouses are, upon formation of the parental union, subject to the rules of this Title, from which they may not derogate, except as otherwise provided by law.

“521.22. A parental union ends by the death of either spouse, by the express or tacit manifestation of the will of the spouses or of either of them to end the union, by the marriage or civil union of both spouses or by the marriage or civil union of either spouse with a third person.

“CHAPTER II

“FAMILY RESIDENCE

“521.23. Parental union spouses choose the family residence together.

In the absence of an express choice, the family residence is presumed to be the residence where the members of the family live while carrying on their principal activities.

“521.24. The provisions relating to the family residence of married spouses apply to parental union spouses, with the necessary modifications.

Moreover, the protective measures set out in articles 401 to 407 subsist for 30 days following the end of the union, where it ended by the express or tacit manifestation of the will of either spouse to end the union.

“521.25. Either spouse may be authorized by the court to enter alone into any act concerning the family residence for which the consent of the other would be required, provided such consent is unobtainable for any reason, or its refusal is not justified by the interest of the family.

“521.26. Where a union ends by the manifestation of the will of the spouses or of either of them, the spouse who intends to apply alone for cancellation of the registration of a declaration of family residence in the land register must, not less than 30 days before applying to the Land Register, serve on the other spouse a prior notice of that intention.

“521.27. Applications relating to the award of the ownership or use of the movable property which serves for the household, or to the award of the lease or of a right of use of the family residence, must be submitted to the court not later than 30 days after the end of the union.

“521.28. The court may order either spouse to leave the family residence during any proceedings to settle the consequences of the end of the union.

It may also authorize either spouse to retain temporarily certain movable property which until that time had served for common use.

“CHAPTER III

“PARENTAL UNION PATRIMONY

“DIVISION I

“GENERAL PROVISIONS

“**521.29.** Parental union entails the establishment of a parental union patrimony consisting of certain property of the spouses regardless of which of them holds a right of ownership in that property.

“**521.30.** The parental union patrimony is composed, upon its establishment, of the following property owned by one or the other of the spouses: the family residence or the rights which confer use of it, the movable property with which it is furnished or decorated and which serves for the use of the household, and the motor vehicles used for family travel.

Property devolved to one of the spouses by succession or gift before or during the union is, however, excluded from the parental union patrimony.

The same applies to the property of a spouse who is a minor, which property is to be included in the parental union patrimony only once the spouse attains full age.

“**521.31.** The spouses may, during the union, change the composition of the parental union patrimony.

Any change whose purpose is to exclude property referred to in the first paragraph of article 521.30 from the parental union patrimony must be attested to, on pain of absolute nullity, by notarial act *en minute*. The change takes effect on the day of the act attesting the change.

“**521.32.** No person of full age under tutorship or under a protection mandate may enter into an agreement concerning the parental union patrimony without the assistance of the person’s tutor or mandatary; the tutor or mandatary must be authorized for this purpose by the court, if applicable, upon the advice of the tutorship council.

No agreement entered into in violation of this article may be impugned except by the person of full age himself or by the person’s tutor or mandatary, as the case may be, nor except in the year immediately following the signing of the agreement.

“**521.33.** The spouses may, during the union, by notarial act *en minute*, on pain of absolute nullity, withdraw by mutual agreement from the application of the provisions of this chapter.

The withdrawal takes effect on the day of the act attesting the withdrawal. Where the withdrawal is attested to within 90 days of the beginning of the union, the parental union patrimony is deemed never to have been established.

“DIVISION II

“PARTITION OF PARENTAL UNION PATRIMONY

“**521.34.** Upon the end of the parental union, where the spouses withdraw from the application of the provisions of this chapter or where a judgment enabling the liquidation of the patrimonial rights of an absentee spouse is rendered, the value of the parental union patrimony, after deducting the debts contracted for the acquisition, improvement, maintenance or preservation of the property composing it, is equally divided between the spouses or between the surviving spouse and the heirs, as the case may be.

“**521.35.** The net value of the parental union patrimony is determined according to the market value, on the date on which the right to partition arises, of the property composing it and of the debts contracted for the acquisition, improvement, maintenance or preservation of the property.

The net value of the parental union patrimony also includes the net value of the property referred to in the first paragraph of article 521.30, but that was excluded from the patrimony by the spouses. The net value of that property is determined at the time of the exclusion.

“**521.36.** Once the net value of the parental union patrimony has been determined, a deduction is made from it of the net value, at the time it was included in the patrimony, of the property that was then owned by one of the spouses and that forms part of the patrimony and of the increase in value acquired by the property while forming part of the patrimony, proportionately to the ratio existing, at the time it was included in the patrimony, between the net value and the gross value of the property.

A further deduction from the net value of the parental union patrimony is made of the net value of the contribution made by one of the spouses for the acquisition or improvement of property in the patrimony while that property forms part of the patrimony as well as of the increase in value acquired since the contribution, proportionately to the ratio existing, at the time of the contribution, between the value of the contribution and the gross value of the property, where the contribution was made out of

(1) the property accumulated before the establishment of the parental union patrimony and that does not form part of it;

(2) the property of a spouse who is a minor accumulated before the spouse attains full age and that does not form part of the parental union patrimony;

- (3) the property devolved by succession or gift before or during the union; or
- (4) the fruits and revenues derived from the property referred to in subparagraphs 1 to 3.

Reinvestment, during the union, of property referred to in this article gives rise to the same deductions, with the necessary modifications.

“521.37. Partition of the parental union patrimony is effected by payment in money or by giving in payment.

If partition is effected by giving in payment, the spouses may agree to transfer ownership of other property than that composing the parental union patrimony.

“521.38. The court may, at the time of partition, award certain property to one of the spouses and may also, where it is necessary to avoid injury, order the debtor spouse to perform his or her obligation by way of instalments spread over a period of not more than 10 years.

It may also order any other measure it considers appropriate to ensure that the judgment is properly executed, and, in particular, order that security be granted to one of the parties to guarantee performance of the obligations of the debtor spouse.

“521.39. Where property that formed part of the parental union patrimony was alienated or misappropriated in the year preceding the time at which the right to partition arose and where that property was not replaced, the court may order that a compensatory payment be made to the spouse who would have benefited from the inclusion of that property in the parental union patrimony.

The same applies where the property was alienated over one year before the right to partition arose and where the alienation was made for the purpose of decreasing the share of the spouse who would have benefited from the inclusion of that property in the parental union patrimony.

“521.40. The court may, on an application, make an exception to the rule of partition into equal shares where it would result in an injustice considering, in particular, the brevity of the parental union, the waste of certain property by one of the spouses, or the bad faith of one of them.

“521.41. A spouse may, from the end of the union, renounce partition of the parental union patrimony in whole or in part; the spouse may renounce partition only by notarial act *en minute* or by a judicial declaration which is recorded, in the course of an application in a family matter.

Renunciation must be entered in the register of personal and movable real rights. Failing entry within a period of one year from the day the union ended, the renouncing spouse is deemed to have accepted.

“521.42. Renunciation by one of the spouses, by notarial act, may be annulled by reason of lesion or any other cause of nullity of contracts.

“CHAPTER IV

“COMPENSATORY ALLOWANCE

“521.43. A spouse may, from the end of the parental union, apply to the court for an order directing the other spouse to pay to the former, as compensation for that spouse’s contribution, in property or services, to the enrichment of the patrimony of the other spouse, an allowance payable all at once or by instalments, taking into account, in particular, the advantages of the parental union patrimony. The same rule applies in case of death; in such a case, the advantages of the succession to the surviving spouse are also taken into account.

Where the right to the compensatory allowance is founded on the regular cooperation of the spouse in an enterprise, whether the enterprise deals in property or in services and whether or not it is a commercial enterprise, it may be applied for from the time the cooperation ends, if it ends due to the alienation, dissolution or voluntary or forced liquidation of the enterprise.

“521.44. The cooperating spouse may adduce any evidence to prove his or her contribution to the enrichment of the patrimony of the other spouse.

“521.45. The court may award a provision to the cooperating spouse to cover the costs of the proceedings.

“521.46. Where a compensatory allowance is to be paid, the court, failing agreement between the parties, establishes its value on the basis of the market value of the property or services received. The court may also, where applicable, fix the terms and conditions of payment and order that the allowance be paid all at once or by instalments or that it be paid by the awarding of rights in certain property.

If the court awards a right in the family residence or a right in the movable property serving for the use of the household to one of the spouses or to the surviving spouse, the provisions of chapters II and III of this Title apply.

“521.47. Either spouse may, during the union, agree with the other spouse to make partial payment of the compensatory allowance. The payment received must be deducted when the time comes to establish the value of the compensatory allowance.”

4. Article 577 of the Code is amended by replacing “or civil union” in the third paragraph by “, civil union or parental union”.

5. Article 578 of the Code is amended by inserting “or recognize a parental union” after “civil union” in the second paragraph.

6. Article 653 of the Code is amended

(1) by striking out “married or civil union”;

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

“For the purposes of the devolution, a surviving spouse is the spouse who was connected to the deceased by marriage, civil union or parental union and who, in the case of a parental union, had been sharing a community of life with the deceased for more than one year.”

7. Article 654 of the Code is amended by replacing “by reason of the marriage or civil union” by “arising from marriage, civil union or parental union”.

8. Article 757 of the Code is amended by replacing “in the event of a remarriage or new civil union” in the second paragraph by “if the latter forms a new union with another person”.

9. Article 809 of the Code is amended by replacing “or civil union spouses” by “, civil union or parental union spouses”.

10. Article 840 of the Code is amended by replacing “married or civil union spouse” by “spouse who was connected to the deceased by marriage, civil union or parental union”.

11. Article 844 of the Code is amended by replacing “or civil union spouse” in the second paragraph by “, civil union or parental union spouse”.

12. Article 851 of the Code is amended by replacing “married or civil union spouse” in the first paragraph by “spouse who was connected to the deceased by marriage, civil union or parental union”.

13. Article 856 of the Code is amended by replacing “married or civil union spouse” in the first paragraph by “spouse who was connected to the deceased by marriage, civil union or parental union”.

14. Article 857 of the Code is amended by replacing “married or civil union spouse” by “spouse who was connected to the deceased by marriage, civil union or parental union”.

15. Article 1938 of the Code is amended by replacing “or civil union spouse” in the first paragraph by “, civil union or parental union spouse”.

16. Article 2906 of the Code is amended by adding the following paragraph at the end:

“Similarly, parental union spouses do not prescribe against each other.”

17. Article 2938 of the Code is amended by inserting “or parental union” after “family” in the second paragraph.

18. Article 2999 of the Code is amended by replacing “or civil union spouse” in the second paragraph by “, civil union or parental union spouse”.

19. Article 3022 of the Code is amended by replacing “or civil union spouses” in the first paragraph by “, civil union or parental union spouses”.

20. Article 3062 of the Code is amended

(1) in the first paragraph,

(a) by replacing “or civil union spouses” by “, civil union or parental union spouses”;

(b) by replacing “or are divorced” by “, are divorced or have ceased to be in a parental union for more than 30 days”;

(2) by replacing “or a copy of the joint notarial declaration of dissolution” in the second paragraph by “, a copy of the prior notice of intention to apply for cancellation of the registration, together with proof of its service on the other spouse, or a copy of or extract from a notarial act attesting the end of the parental union or an extract from the joint notarial declaration dissolving a civil union”.

21. The Code is amended by inserting the following subdivision after article 3090.3:

“§3.2. — *Parental union*

“**3090.4.** The effects of a parental union, particularly those from which the spouses may not derogate, are subject to the law of the domicile of the spouses.

Where the spouses are domiciled in different States, the applicable law is the law of the place of their common residence or, failing that, the law of the place of their last common residence or, failing that, the law of the place of birth of the child.”

22. Article 3099 of the Code is amended by replacing “or civil union spouse” in the first paragraph by “, civil union or parental union spouse”.

23. Article 3145 of the Code is amended by adding the following paragraph at the end:

“The same applies as regards the effects of a parental union, particularly those from which the spouses may not derogate.”

ACT TO PROMOTE ACCESS TO JUSTICE THROUGH THE
ESTABLISHMENT OF THE SERVICE ADMINISTRATIF DE
RAJUSTEMENT DES PENSIONS ALIMENTAIRES POUR ENFANTS

24. Section 1 of the Act to promote access to justice through the establishment of the Service administratif de rajustement des pensions alimentaires pour enfants (chapter A-2.02) is amended by adding the following paragraph at the end:

“It is also mandated to offer, in the cases and on the conditions and terms determined by government regulation, a child support calculation service for the parents of a child who wish to enter into an agreement regarding the determination or recalculation of their support obligation with respect to the child.”

25. Section 16 of the Act is amended by replacing “Any parent who makes an application for recalculation of child support must” in the first paragraph by “To obtain a recalculation or calculation referred to in section 1, a parent must”.

CODE OF CIVIL PROCEDURE

26. Article 16 of the Code of Civil Procedure (chapter C-25.01) is amended by replacing “In adoption matters, access to the court records” in the third paragraph by “Access to the court records in adoption matters or to documents relating to youth protection”.

27. The Code is amended by inserting the following article after article 51:

“**51.1.** In family matters, the court rules on the abuse taking into account, among other things, the history of the proceedings involving the parties, the impact that their repeated and disputed nature may have on the other party and, if applicable, on the child, and whether there is an equal balance of power between the parties, in particular given incidents of family violence, which includes spousal violence.”

28. Article 52 of the Code is amended by inserting “in a family matter or on that of a pleading” after “a pleading” in the fifth paragraph.

29. Article 54 of the Code is amended by inserting the following paragraph after the first paragraph:

“In family matters, in addition to any other order that it may issue under the first paragraph, the court, when declaring that an application or a pleading is abusive, orders the party that initiated the application or pleading to pay damages to cover the professional fees and disbursements incurred by the other party.”

30. Article 72 of the Code is amended by replacing the second paragraph by the following paragraphs:

“In matters relating to child custody or support obligations, the special clerk may homologate any agreement between the parties that provides a complete settlement of such matters.

In matters relating to de facto unions, the special clerk may homologate any agreement between the spouses pertaining to the consequences of the end of their union.

In order to evaluate the agreement or assess the consent of the parties, the special clerk may convene the parties and hear them, even separately, in the presence of their lawyer or, as applicable, of the notary presenting the application. If the special clerk considers that the agreement does not sufficiently protect the children’s interests or that consent was obtained under duress, the case is referred to a judge or to the court.”

31. Article 303 of the Code is amended by inserting the following subparagraph after subparagraph 7 of the first paragraph:

“(7.1) the homologation of an agreement between de facto spouses pertaining to the consequences of the end of their union;”.

32. Article 342 of the Code is amended

(1) by inserting “, on its own initiative or on an application,” after “may” in the first paragraph;

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

“For that purpose, in family matters, the court takes into account the history of the proceedings involving the parties.”

33. The Code is amended by inserting the following section after article 409:

“409.1. The chief justice favours having one and the same judge take charge of a court record.”

34. Article 410 of the Code is amended by inserting “, or an application pertaining to the consequences of the end of a parental union,” after “or for dissolution of a civil union” in the first paragraph.

35. Article 411 of the Code is amended by replacing “or for the dissolution of a civil union” in the second paragraph by “, for the dissolution of a civil union or for the partition of a parental union patrimony”.

36. Article 412 of the Code is amended by inserting “, except applications for the partition of a parental union patrimony” at the end.

37. Article 413 of the Code is amended by replacing “of family patrimony” and “the family patrimony” in the first paragraph by “of the family or parental union patrimony” and “the family or parental union patrimony”, respectively.

38. Article 415 of the Code is amended by replacing “joint application on a draft agreement” in the second paragraph by “application”.

39. Article 417 of the Code is amended, in the first paragraph,

(1) by inserting “or parental union” after “family”;

(2) by replacing “or civil union” by “, civil union or parental union,”.

40. Article 519 of the Code is amended

(1) by replacing “or for the dissolution of a civil union, or for payment of a compensatory allowance” by “, for the dissolution of a civil union, for payment of a compensatory allowance, or for partition of a parental union patrimony”;

(2) by inserting “or in the case of partition of a parental union patrimony” after “matrimonial or civil union regime”.

41. Article 696 of the Code is amended by inserting “or parental union” after “family” in the third paragraph.

42. Article 698 of the Code is amended by inserting “or parental union” after “family” in the fifth paragraph.

YOUTH PROTECTION ACT

43. The Youth Protection Act (chapter P-34.1) is amended by inserting the following subdivision after the heading of Division I of Chapter V:

“§0.1. — *Charge of records of the tribunal*

“**72.12.** The chief judge favours having one and the same judge take charge of a court record.”

44. Section 96 of the Act is amended by inserting the following paragraph after the first paragraph:

“A judge of the Superior Court who is seized of a case in a family matter and who orders the production of an order, application, agreement or decision relating to youth protection concerning the child who is the subject of the family matter may receive a copy or duplicate of those documents and take cognizance of them, as may the clerk of the court.”

TRANSITIONAL AND FINAL PROVISIONS

45. Title I.2 of the Civil Code, enacted by section 3, applies only to persons who become the father and mother or the parents of the same child after 29 June 2025.

46. This Act comes into force on 30 June 2025, except

(1) the provisions of sections 24 to 26 and 44, which come into force on the date or dates to be determined by the Government; and

(2) the provisions of sections 27 to 29, 32, 33 and 43, which come into force on *(insert the date of assent to this Act)*.