



NATIONAL ASSEMBLY OF QUÉBEC

THIRD SESSION

FORTY-THIRD LEGISLATURE

Bill 596

**An Act to reinforce the integrity and
protection of human rights and
freedoms**

Introduction

**Introduced by
Mr. Haroun Bouazzi
Member for Maurice-Richard**

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EXPLANATORY NOTES

The purposes of this bill are to regulate Parliament's ability to override the Charter of human rights and freedoms and to establish a special legislative process for the passage of any overriding bill, that is, bills that override sections 1 to 38 of that Charter or that propose an amendment to Part I of the Charter or an amendment to this bill.

In pursuit of those purposes, the bill states that sections 1 to 38 of the Charter of human rights and freedoms may not be overridden unless a serious and objective peril threatens the population of Québec or unless the override provision specifically aims to ensure the protection and the preservation of the French language or the First Nations and Inuit languages. It also states that, in accordance with Québec's international obligations regarding the protection of human rights and freedoms, certain specific rights, such as the right to life, cannot be overridden.

With respect to the special legislative process for overriding bills introduced in the National Assembly, the bill imposes prerequisites for their passage in principle, including

(1) an evaluation report by the Minister of Justice including an analysis of the impacts of the use of the override provision;

(2) an advisory opinion from the Court of Appeal, requested by the Government, for hearing and consideration of any question with respect to the overriding bill, including whether the override provision is consistent with the provisions of this bill;

(3) a general consultation on the proposed override provision held by the competent parliamentary committee.

The bill also provides that a motion for the passage of an overriding bill must be carried by a two-thirds majority of the members of the National Assembly from at least two parliamentary groups.

In addition, the bill amends the Charter of human rights and freedoms to, in particular, limit to five years the validity period of a provision that overrides sections 1 to 38 of that Charter.

Lastly, the bill provides transitional, miscellaneous and final provisions to, among other things, ensure that it has precedence over the other laws of Québec.

LEGISLATION AMENDED BY THIS BILL:

- Charter of human rights and freedoms (chapter C-12).

Bill 596

AN ACT TO REINFORCE THE INTEGRITY AND PROTECTION OF HUMAN RIGHTS AND FREEDOMS

AS it is vital to solemnly reaffirm that every human being possesses inalienable rights and freedoms inherent to their person which must be protected against encroachments that undermine their integrity;

AS the Charter of human rights and freedoms enjoys primacy in the Québec legal order and the rights and freedoms enshrined therein are of fundamental importance for all of Québec society;

AS Québec has international obligations regarding the protection of human rights and freedoms;

AS the primacy of law demands respect for these standards that are essential for human dignity and, consequently, the State may only suspend the application of these rights and freedoms exceptionally, for compelling and objective reasons and within a prescribed framework, in order to ensure the best possible democratic deliberation;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

PURPOSES

1. The purposes of this Act are to regulate Parliament's ability to override the Charter of human rights and freedoms (chapter C-12) and to establish a special legislative process for overriding bills.

Overriding bills are those which, under the first paragraph of section 52 of the Charter of human rights and freedoms, include a first provision that overrides sections 1 to 38 of that Charter.

Bills amending this Act, bills proposing an override provision that is renewed under the third paragraph of section 52 of the Charter of human rights and freedoms and bills amending Part I of that Charter are considered to be overriding bills.

CHAPTER II

CONDITIONAL OR PROHIBITED RESTRICTION

2. The human rights and freedoms protected by the Charter of human rights and freedoms (chapter C-12) can be overridden only if a serious and objective peril threatens the population of Québec or if the override provision specifically aims to ensure the protection and the preservation of the French language or the First Nations and Inuit languages.

Potential sources of serious and objective perils recognized within the meaning of this Act include a major natural disaster, a large-scale terrorist attack, an epidemic that seriously threatens the health of the population or a war in which Québec and its population are involved.

Despite the first paragraph and in accordance with Québec's international obligations regarding the protection of human rights, the rights protected under section 1 of the Charter of human rights and freedoms cannot be overridden.

CHAPTER III

LEGISLATIVE PROCESS FOR OVERRIDING BILLS

DIVISION I

GENERAL PROVISION

3. The provisions of the Standing Orders of the National Assembly apply to overriding bills to the extent that they are compatible with the provisions of this Act.

DIVISION II

PREREQUISITES TO THE PASSAGE IN PRINCIPLE

4. After the introduction of an overriding bill but before the debate on its principle may begin, the bill must have been the subject of an evaluation report by the Minister of Justice, of an advisory opinion from the Court of Appeal and of a general consultation to ensure that the competent parliamentary committee consults the individuals and organizations who wish to make their opinions known on the proposed provision to override the Charter of human rights and freedoms (chapter C-12).

5. The evaluation report by the Minister of Justice must include, in particular, an analysis of the impacts of the use of the override provision that must at least

(1) specify the nature of the serious and objective peril justifying the override proposal or present the elements showing that the override proposal is likely to ensure the protection or the preservation of the French language or the First Nations and Inuit languages;

(2) identify the rights and freedoms to which the override provision applies and their connection with the serious and objective peril justifying the override proposal or their connection with the protection and preservation of the French language or the First Nations and Inuit languages;

(3) describe the nature of the apprehended infringement on the rights or freedoms and assess the scope, required duration and intensity of the effects; and

(4) describe the alternatives studied and state the reasons for which they were rejected.

The first paragraph applies, with the necessary modifications, to the overriding bills referred to in the third paragraph of section 1.

The report must be tabled in the National Assembly.

6. The advisory opinion from the Court of Appeal must be rendered within two months of referral by the Government, for hearing and consideration, of any question with respect to the overriding bill, including the legality of the override provision.

The opinion is subject to the same rules as those that apply to references made to the Court of Appeal, with the exception that the opinion is not considered a judgment of that Court and no appeal lies therefrom to the Supreme Court of Canada.

An advisory opinion from the Court of Appeal is not required for the overriding bills referred to in the third paragraph of section 1.

The opinion must be tabled in the National Assembly.

7. The overriding bill is referred to the competent parliamentary committee for the purpose of holding a general consultation once the evaluation report by the Minister of Justice and the advisory opinion from the Court of Appeal, if applicable, have been tabled in the National Assembly.

The question on the motion of referral is put to a vote without debate.

DIVISION III

TERMS FOR PASSAGE

8. The motion for passage of an overriding bill must be carried by a two-thirds majority of the members of the National Assembly from at least two parliamentary groups.

CHAPTER IV
AMENDING PROVISION

CHARTER OF HUMAN RIGHTS AND FREEDOMS

9. Section 52 of the Charter of human rights and freedoms (chapter C-12) is amended by adding the following paragraphs at the end:

“An override provision ceases to have effect on the date specified therein or, at the latest, five years after its coming into force.

To provide for the cessation of its effect, a renewed override provision may be passed and ceases to have effect in accordance with the provisions of the second paragraph.”

CHAPTER V
TRANSITIONAL PROVISIONS

10. Provisions overriding the Charter of human rights and freedoms (chapter C-12) in force on *(insert the date of assent to this Act)* remain in force until *(insert the date that is five years after the date of assent to this Act)*, unless a shorter validity period for such a provision is provided for by law.

11. For the purposes of Chapter III, a bill proposing that a first override provision be renewed to provide for the cessation of effect of an override provision referred to in section 10 is considered an overriding bill within the meaning of the second paragraph of section 1.

12. This Act applies to overriding bills introduced in the National Assembly from *(insert the date of assent to this Act)*.

Any stages of a bill’s legislative process carried out in contravention of Chapter III are cancelled.

CHAPTER VI
MISCELLANEOUS AND FINAL PROVISIONS

13. This Act has precedence over any inconsistent rule of law.

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