



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-NINTH LEGISLATURE

Bill 70

**An Act to facilitate civil proceedings by
victims of crime and the exercise of
certain other rights**

Introduction

**Introduced by
Mr. Jean-Marc Fournier
Minister of Justice**

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EXPLANATORY NOTES

This bill amends the Civil Code to make certain corrections or adjustments to remedy problems that have been encountered in the application of certain of its provisions.

In prescription matters, the prescriptive period is extended from 3 to 10 years for civil liability actions for injury suffered as a result of an act against the person of another that may constitute a criminal offence. The day the prescriptive period starts to run is clearly fixed as the day the victim becomes aware that the injury suffered is attributable to that act. Also, in the future, prescription applicable to such actions will not run against a minor or a person of full age under curatorship or tutorship.

In civil status matters, the registrar of civil status is given the power, subject to certain conditions, to draw up the act of death of a missing person when someone has been convicted of acts causing the person's death or the disappearance of the person's body. The act drawn up produces the same effects as a declaratory judgment of death. The registrar of civil status is also given the power, again subject to certain conditions, to change the designation of sex that appears on the act of birth of a person who was born in Québec but is domiciled outside Québec, when this is not possible in the country where the person is domiciled.

Lastly, in succession matters, the rules relating to notarial wills and wills made in the presence of witnesses are amended so that a deaf-mute person who is unable to read or write can make either of these types of wills through a sign-language interpreter.

LEGISLATION AMENDED BY THIS BILL:

– Civil Code of Québec.

Bill 70

AN ACT TO FACILITATE CIVIL PROCEEDINGS BY VICTIMS OF CRIME AND THE EXERCISE OF CERTAIN OTHER RIGHTS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Article 71 of the Civil Code of Québec is amended by replacing “Only a person of full age who has been domiciled in Québec” at the beginning of the second paragraph by “Subject to the provisions of article 3084.1, only a person of full age who has been domiciled in Québec”.

2. The Code is amended by inserting the following article after article 133:

“133.1. Where a court has convicted a person of acts that caused the death of a missing person or the disappearance of a deceased person’s body, any interested person may declare the death of the absentee to the registrar of civil status. A copy of the judgment of conviction, having become final, must be attached to the declaration of death.

In the absence of any objection from a third person within 20 days of the publication of the notices given in accordance with the rules determined by government regulation, the registrar of civil status draws up the act of death of the absentee. Where the date, time and place of death are unknown, the registrar of civil status fixes them on the basis of the particulars of the judgment and the presumptions that may be drawn from the circumstances.

The act drawn up by the registrar of civil status produces the same effects as a declaratory judgment of death.”

3. The Code is amended by inserting the following article after article 722:

“722.1. A deaf-mute person who, being unable to read or write, cannot avail himself of the other provisions of this section may make a notarial will, provided he conveys his wishes to the notary through a sign-language interpreter.

The testator, in the presence of the notary and a witness, declares, through the same means, that the document translated to him by the interpreter is his will.

The interpreter is chosen by the testator from among interpreters qualified to exercise their functions before the courts.

The interpreter must first swear in writing, before the notary, the testator and the witness, to carry out his functions with impartiality and accuracy and not to disclose any information related to his mandate. The original of the oath must be attached to the will.”

4. Article 729 of the Code is amended by replacing “may not make a will in the presence of witnesses, unless the will is read” in the first paragraph by “may make a will in the presence of witnesses, provided the will is read”.

5. The Code is amended by inserting the following article after article 730:

“730.1. A deaf-mute person who, being unable to read or write, cannot avail himself of the other provisions of this section may make a will in the presence of witnesses, provided he conveys his wishes to the drafter through a sign-language interpreter.

The testator, in the presence of the witnesses, declares, through the same means, that the document translated to him by the interpreter is his will. Where possible, the testator affixes his signature or a personal mark at the end of the will. Otherwise, the testator has a third party sign for him, in his presence and in accordance with his instructions. The witnesses then sign the will immediately in the presence of the testator.

The interpreter is chosen by the testator from among interpreters qualified to exercise their functions before the courts.

The interpreter must first swear in writing, before the drafter, the testator and the witnesses, to carry out his functions with impartiality and accuracy and not to disclose any information related to his mandate. The original of the oath must be attached to the will.”

6. Article 2905 of the Code is amended by striking out the comma after “tutelle” in the French text of the second paragraph and by adding “, or with respect to remedies against any person for injury suffered as a result of an act against the person of another that may constitute a criminal offence” at the end of the second paragraph.

7. The Code is amended by inserting the following article after article 2926:

“2926.1. An action in damages for injury suffered as a result of an act against the person of another that may constitute a criminal offence is prescribed by 10 years from the day the victim becomes aware that the injury suffered is attributable to that act.”

8. Article 2930 of the Code is amended by inserting “or ten years, as applicable,” after “three years”.

9. The Code is amended by inserting the following article after article 3084:

“3084.1. When a change of the designation of sex that appears on the act of birth of a person born in Québec but domiciled outside Québec is not possible in the country where the person is domiciled, the registrar of civil status may, on the request of the person, make the change in the act drawn up in Québec.

The change, which may also pertain to the first names of the person, must be made in accordance with the law of Québec, except the requirements respecting domicile and nationality.”

TRANSITIONAL AND FINAL PROVISIONS

10. The suspension of prescription provided for in the new provisions of article 2905 of the Civil Code, amended by section 6, applies only from the coming into force of section 6 with respect to existing legal situations.

11. The prescriptive period of 10 years provided for in article 2926.1 of the Civil Code, enacted by section 7, applies to existing legal situations and the time already elapsed is taken into account.

The provisions of article 2926.1 of the Civil Code that pertain to the day the prescriptive period begins to run are declaratory.

12. This Act comes into force on (*insert the date of assent to this Act*), except section 2, which comes into force on the date of coming into force of the first regulation made under article 133.1 of the Civil Code, enacted by that section.

