



NATIONAL ASSEMBLY

FIRST SESSION

FORTIETH LEGISLATURE

Bill 199

**An Act to amend the Anti-Corruption
Act as concerns the protection of
whistleblowers**

Introduction

**Introduced by
Mr. Jacques Duchesneau
Member for Saint-Jérôme**

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EXPLANATORY NOTES

The purpose of this bill is to amend the Anti-Corruption Act in order to broaden the scope of its provisions relating to the protection of whistleblowers and to entrust responsibility for their protection to the Anti-Corruption Commissioner.

Any decision, activity or practice that endangers the longevity, integrity or financial soundness of a body or a person belonging to the public sector, that is in violation of an Act or regulation or that is contrary to the principles of economy, efficiency or effectiveness constitutes a wrongdoing.

Persons subject to the Public Service Act must disclose any information relating to any wrongdoing by a department or public body, and persons who disclose wrongdoings may demand protection of their identity.

The powers of the Commissioner are broadened to include the authority to protect persons who have disclosed wrongdoings under the Act.

Any person who takes a reprisal against a person having disclosed a wrongdoing or cooperated in an audit or an investigation regarding a wrongdoing is guilty of an offence. The notion of what constitutes a reprisal measure is also clarified.

Lastly, disciplinary action will be imposed on any public servant who takes a reprisal against a person having disclosed a wrongdoing.

LEGISLATION AMENDED BY THIS BILL:

– Anti-Corruption Act (chapter L-6.1).

Bill 199

AN ACT TO AMEND THE ANTI-CORRUPTION ACT AS CONCERNS THE PROTECTION OF WHISTLEBLOWERS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 2 of the Anti-Corruption Act (chapter L-6.1) is amended

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

“(2.1) any organizational or individual decision, activity or practice that endangers the longevity, integrity or financial soundness of a body or a person belonging to the public sector, that is in violation of an Act or regulation or that is contrary to the principles of economy, efficiency or effectiveness set out in section 21 of the Auditor General Act (chapter V-5.01);”;

(2) by replacing “or 2” in paragraph 3 by “, 2 or 2.1”.

2. Section 9 of the Act is amended by inserting the following subparagraph after subparagraph 1 of the first paragraph:

“(1.1) to ensure the protection of any person who has made a disclosure of wrongdoing under this Act;”.

3. Section 26 of the Act is amended by replacing “that the person believes could show” by “shows” and by striking out “that could show”.

4. The Act is amended by inserting the following sections after section 26:

“**26.1.** Any person subject to the Public Service Act (chapter F-3.1.1) must, by a sworn statement transmitted to the Commissioner in a sealed envelope, disclose any information relating to any wrongdoing by a department or public body.

“**26.2.** Any person who discloses a wrongdoing to the Commissioner under this Act may demand protection of his or her identity.”

5. Section 31 of the Act is replaced by the following section:

“**31.** The Commissioner is bound to keep confidential the identity of persons who have made a disclosure and demanded protection of their identity or who have been assured, by anyone empowered under this Act to make such assurances, that their identity will be protected.

When the Commissioner is required to communicate to the Director of Criminal and Penal Prosecutions the identity of a person having made a disclosure, the Commissioner must take the necessary measures to ensure the physical and psychological safety of the person and anyone in close contact with him or her, giving due consideration to such elements as the importance of the facts disclosed and the identity of those believed to be responsible for the wrongdoings.

The Commissioner may provide the person with an assurance of immunity against penal or criminal proceedings, or against civil proceedings instituted by a public body under provincial jurisdiction.

The Commissioner may make the necessary representations to the person's employer or agent to ensure that subparagraph 7 of the first paragraph of section 122 of the Act respecting labour standards (chapter N-1.1) is respected."

6. Section 32 of the Act is replaced by the following section:

"32. Anyone who takes a reprisal against a person who has disclosed a wrongdoing or has cooperated in an audit or an investigation regarding a wrongdoing, or threatens to take a reprisal against a person so that he or she abstains from making such a disclosure or cooperating in such an audit or investigation is guilty of an offence under this Act."

7. Section 33 of the Act is replaced by the following section:

"33. Punishing, harassing, reprimanding, downgrading, demoting, suspending, transferring, or terminating the employment of a person referred to in section 32, or subjecting the person to any other inconvenience or depriving him or her of a benefit related to his or her employment or working conditions, is presumed to be a reprisal."

8. Section 34 of the Act is replaced by the following sections:

"34. Any public servant who contravenes section 32 is liable to disciplinary action imposed in accordance with sections 16 and 17 of the Public Service Act (chapter F-3.1.1).

"34.1. Any person who is not a member of the public service and who contravenes section 32 is guilty of an offence and is liable to a fine of

(1) \$2,000 to \$20,000 in the case of a natural person; and

(2) \$10,000 to \$250,000 in the case of a legal person.

For any subsequent offence, the amounts are doubled."

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