



NATIONAL ASSEMBLY

FIRST SESSION

FORTIETH LEGISLATURE

Bill 60

**Charter affirming the values of State
secularism and religious neutrality and
of equality between women and men,
and providing a framework for
accommodation requests**

Introduction

**Introduced by
Mr. Bernard Drainville
Minister responsible for Democratic Institutions
and Active Citizenship**

**Québec Official Publisher
2013**

EXPLANATORY NOTES

The purpose of this bill is to establish a Charter affirming the values of State secularism and religious neutrality and of equality between women and men, and providing a framework for accommodation requests.

A further purpose of the bill is to specify, in the Charter of human rights and freedoms, that the fundamental rights and freedoms guaranteed by that Charter are to be exercised in a manner consistent with the values of equality between women and men and the primacy of the French language as well as the separation of religions and State and the religious neutrality and secular nature of the State, while making allowance for the emblematic and toponymic elements of Québec's cultural heritage that testify to its history.

Public bodies must, in the pursuit of their mission, remain neutral in religious matters and reflect the secular nature of the State. Accordingly, obligations are set out for personnel members of public bodies in the exercise of their functions, including a duty to remain neutral and exercise reserve in religious matters by, among other things, complying with the restriction on wearing religious objects that overtly indicate a religious affiliation. As well, personnel members of a public body must exercise their functions with their face uncovered, and persons to whom they provide services must also have their face uncovered when receiving such services.

The same rules apply to other persons, in particular to persons who exercise judicial functions, or adjudicative functions within the administrative branch, and to personnel members of the National Assembly.

The bill defines, in the Charter of human rights and freedoms, what constitutes an accommodation resulting from the application of the Charter, and sets out the conditions for granting such an accommodation. An analytical framework is also provided to facilitate the handling of accommodation requests submitted to public bodies on religious grounds.

Public bodies are required to adopt a policy to implement the prescriptions of the bill.

Special rules are provided for the educational childcare services sector.

The Act respecting the National Assembly is amended to specifically grant the Assembly the power to regulate the wearing of religious symbols by Members, and grant the Office of the National Assembly the power to approve the presence of a religious symbol in the premises of the Assembly.

Finally, the Government is granted powers to facilitate the application of the bill, and transitional and final provisions are introduced.

LEGISLATION AMENDED BY THIS BILL:

- Act respecting the National Assembly (chapter A-23.1);
- Charter of human rights and freedoms (chapter C-12);
- Educational Childcare Act (chapter S-4.1.1).

Bill 60

CHARTER AFFIRMING THE VALUES OF STATE SECULARISM AND RELIGIOUS NEUTRALITY AND OF EQUALITY BETWEEN WOMEN AND MEN, AND PROVIDING A FRAMEWORK FOR ACCOMMODATION REQUESTS

PREAMBLE

The National Assembly of Québec affirms the values of separation of religions and State and the religious neutrality and secular nature of the State;

The National Assembly reiterates the importance it attaches to the value of equality between women and men;

The National Assembly recognizes that it is appropriate to provide for certain measures to ensure that these values are upheld;

The National Assembly believes that it is necessary to establish certain guidelines to deal with accommodation requests, particularly in religious matters;

The National Assembly reaffirms the importance it attaches to human rights and freedoms;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

RELIGIOUS NEUTRALITY AND SECULAR NATURE OF PUBLIC BODIES

1. In the pursuit of its mission, a public body must remain neutral in religious matters and reflect the secular nature of the State, while making allowance, if applicable, for the emblematic and toponymic elements of Québec's cultural heritage that testify to its history.

2. For the purposes of this Charter,

(1) public bodies are the bodies and institutions, and persons together with their personnel, listed in Schedule I;

(2) the persons listed in Schedule II are considered personnel members of a public body.

CHAPTER II

DUTIES AND OBLIGATIONS OF PERSONNEL MEMBERS OF PUBLIC BODIES

DIVISION I

DUTIES OF NEUTRALITY AND RESERVE IN RELIGIOUS MATTERS

- 3.** In the exercise of their functions, personnel members of public bodies must maintain religious neutrality.
- 4.** In the exercise of their functions, personnel members of public bodies must exercise reserve with regard to expressing their religious beliefs.

DIVISION II

RESTRICTION ON WEARING RELIGIOUS SYMBOLS

- 5.** In the exercise of their functions, personnel members of public bodies must not wear objects such as headgear, clothing, jewelry or other adornments which, by their conspicuous nature, overtly indicate a religious affiliation.

CHAPTER III

OBLIGATION TO HAVE FACE UNCOVERED

- 6.** Personnel members of public bodies must exercise their functions with their face uncovered, unless they have to cover their face in particular because of their working conditions or because of occupational or task-related requirements.
- 7.** Persons must ordinarily have their face uncovered when receiving services from personnel members of public bodies. How this obligation applies must be specified by the public body in its implementation policy, in accordance with the second paragraph of section 22.

When an accommodation is requested, the public body must refuse to grant it if, in the context, the refusal is warranted for security or identification reasons or because of the level of communication required.

CHAPTER IV

RULES OF APPLICATION

- 8.** In addition to personnel members of public bodies, the duties and obligations set out in sections 3 to 6 apply to the following persons in the exercise of their functions:

(1) judges of the Court of Québec, the Professions Tribunal, the Human Rights Tribunal and the municipal courts, as well as presiding or administrative justices of the peace;

(2) any other person appointed by the Government or by a minister to exercise an adjudicative function within the administrative branch, including arbitrators whose names appear on a list drawn up by the Minister of Labour in accordance with the Labour Code (chapter C-27); and

(3) commissioners appointed by the Government under the Act respecting public inquiry commissions (chapter C-37) and their personnel.

Those duties and obligations also apply to personnel members of the National Assembly in the exercise of their functions.

9. The obligation to have one's face uncovered also applies to persons not otherwise subject to it while they are exercising functions provided for by law for which they were appointed or designated by the Government or a minister.

10. A public body may require that any person or partnership with whom it has entered into a service contract or subsidy agreement fulfill one or more of the duties and obligations set out in Chapters II and III, if such a requirement is warranted in the circumstances in particular because of the duration, nature or place of performance of the contract or agreement.

11. The duties of neutrality and reserve and the restriction on wearing religious symbols do not apply to personnel members who provide spiritual care and guidance services in a centre operated by a public institution under the Act respecting health services and social services (chapter S-4.2) or in a correctional facility under the Act respecting the Québec correctional system (chapter S-40.1).

Nor do these duties and this restriction apply to persons in charge of providing instruction of a religious nature in a university-level educational institution or providing spiritual care and guidance services in such an institution or in a general and vocational college.

12. The duties of neutrality and reserve cannot override rules of conduct provided by law that allow physicians and pharmacists to refrain from recommending or providing professional services because of their personal convictions.

13. Sections 3 to 6 are deemed to constitute an integral part of the employment conditions of the persons to whom they apply.

A stipulation contrary to any of those sections is without effect.

14. After a first failure by a personnel member of a public body to comply with the restriction on wearing a religious symbol, dialogue must be engaged in before any disciplinary measure is taken by the public body, in order to remind the person of their obligations and foster their compliance.

CHAPTER V

HANDLING OF ACCOMMODATION REQUESTS ON RELIGIOUS GROUNDS

15. When an accommodation request on religious grounds is submitted to a public body, the public body must make sure that

(1) the accommodation request results from the application of section 10 of the Charter of human rights and freedoms (chapter C-12);

(2) the accommodation requested is consistent with the right for equality between women and men;

(3) the accommodation is reasonable in that it does not impose undue hardship on the public body with regard to, among other considerations, the rights of others, public health and safety, the effects on the proper operation of the public body, and the costs involved; and

(4) the accommodation requested does not compromise the separation of religions and State or the religious neutrality and secular nature of the State.

16. When an accommodation request on religious grounds involves an absence from work, a public body must more specifically consider

(1) the frequency and duration of absences on such grounds;

(2) the size of the administrative unit to which the person making the request belongs, the ability of the unit to adapt, and the interchangeability of the public body's workforce;

(3) the consequences of the absence on the work of the person making the request, on the work of other personnel members and on the organization of services;

(4) the possible arrangements, including modifying the work schedule, accumulating or using a bank of hours or vacation days, or undertaking to make up the hours missed; and

(5) fairness with regard to the employment conditions of other personnel members, including the number of days of paid leave and work schedules.

17. If an accommodation request on religious grounds concerns a student attending an educational institution established by a school board, the school

board must take into account the objectives set out in the Education Act (chapter I-13.3), in particular to make sure that the request is consistent with and does not compromise

- (1) compulsory school attendance;
- (2) the basic school regulations established by the Government;
- (3) the school's educational project;
- (4) the mission of schools, which is to impart knowledge to students, foster their social development and give them qualifications, in keeping with the principle of equal opportunity, while enabling them to undertake and achieve success in a course of study; and
- (5) the ability of the institution to provide students with the educational services provided for by law.

18. Accommodation requests on religious grounds cannot be made with respect to the duties and obligations set out in sections 3 to 6.

CHAPTER VI

IMPLEMENTATION POLICIES

19. A public body must adopt a policy to implement the prescriptions of this Charter that is consistent with its own mission and characteristics. Among other things, the implementation policy must take into account the obligations imposed on the public body by this Charter and by the particular legislative provisions relating to the spiritual needs of its clientele.

20. A public body's implementation policy must state and define the duties of religious neutrality and reserve incumbent on its personnel members in the exercise of their functions, including

- (1) the obligation to perform their tasks with all due objectivity, regardless of their religious opinions and beliefs;
- (2) the obligation to refrain from all forms of proselytism; and
- (3) the restriction on wearing religious symbols.

The implementation policy must also state that the personnel members of the public body are required to have their face uncovered.

21. A public body's implementation policy must state the rule set out in section 14 for cases where a personnel member fails to comply with the restriction on wearing a religious symbol.

22. A public body's implementation policy must state and define the rules for handling the accommodation requests on religious grounds that are submitted to it.

The policy must specify, for persons requiring the services dispensed by the public body, how the obligation to have one's face uncovered applies during the delivery of services.

The policy must also set out what steps the personnel members of the public body are expected to take when an accommodation request is submitted to them.

23. With a view to facilitating the application of coherent rules in a given sector of activity, the minister responsible for the sector may draw up a model implementation policy for the sector. Public bodies in that sector may adopt the model policy, which then becomes their implementation policy.

24. If a public body fails to adopt an implementation policy within the prescribed time, the Minister may, in collaboration with the minister responsible for the public body, develop a policy that the public body must apply.

25. A public body must ensure that its personnel members and the public have access to the implementation policy and must post the policy on its website, if it has one.

26. A public body must review its implementation policy at least once every five years in order to evaluate the application of the measures it contains and make any amendments it considers appropriate.

CHAPTER VII

RULES APPLICABLE TO THE EDUCATIONAL CHILDCARE SERVICES SECTOR

27. In the exercise of their functions, personnel members, including management personnel, of a childcare centre, home childcare coordinating office or subsidized day care centre governed by the Educational Childcare Act (chapter S-4.1.1) are bound by the duties and obligations set out in sections 3 to 6. In cases of failure to comply, the prescriptions of section 14 apply, with the necessary modifications.

The obligation to have one's face uncovered set out in section 6 also applies to persons recognized as subsidized home childcare providers under the Educational Childcare Act and their personnel in the exercise of their functions.

28. The rules set out in Chapter V to govern the handling of accommodation requests on religious grounds apply, with the necessary modifications, to requests submitted to a body referred to in the first paragraph of section 27.

29. The Minister responsible for the administration of the Educational Childcare Act must, in collaboration with the Minister responsible for the administration of this Charter, establish a policy to implement the prescriptions of the first paragraph of section 27 and section 28 that is applicable to the bodies referred to in those provisions. Among other things, the policy must detail the elements provided for in sections 20 to 22. It must also provide for the implementation of the prescriptions of the second paragraph of section 27 that are applicable to the persons referred to in that paragraph.

The policy must take into account the objectives of the Educational Childcare Act.

30. In order to facilitate social cohesion and the integration of children without regard to social or ethnic origin or religious affiliation, the policy must provide, among other things, that

(1) children's admission must not be related to their learning a specific religious belief, dogma or practice;

(2) the objective of educational activities and communication cannot be to teach such a belief, dogma or practice; and

(3) a repeated activity or practice stemming from a religious precept, in particular with regard to dietary matters, must not be authorized if its aim, through words or actions, is to teach children that precept.

The provisions relating to the elements provided for in subparagraphs 1 to 3 of the first paragraph also apply to persons recognized as subsidized home childcare providers under the Educational Childcare Act.

31. The Minister responsible for the administration of the Educational Childcare Act must make the implementation policy available to the public, to bodies governed by that Act, and to persons recognized as subsidized home childcare providers under that Act, and must post the policy on the Minister's website.

The Minister reviews the policy, in collaboration with the Minister responsible for the administration of this Charter, at least once every five years to evaluate the application of the measures it contains and to make any modifications the Minister considers appropriate.

CHAPTER VIII

RESPONSIBILITIES AND ACCOUNTABILITY

32. It is incumbent on the highest authority in a public body or a body referred to in Chapter VII to take the necessary measures to ensure that the prescriptions of this Charter are implemented within that body.

The authority concerned must report annually on this matter, in particular in the body's annual management or activity report, if such a report is required by law.

CHAPTER IX

POWERS AND FUNCTIONS OF THE MINISTER

33. The Minister proposes to the Government any appropriate measure with regard to the religious neutrality and secular nature of the State and with regard to how religious accommodation requests are to be dealt with.

The functions of the Minister include

- (1) promoting compliance with the provisions of this Charter;
- (2) providing support to public bodies in developing, reviewing and applying their implementation policy;
- (3) providing expertise to and collaborating with public bodies and civil society partners in order to promote the achievement of the objectives of this Charter, in particular with regard to the development of model policies for given sectors of activity; and
- (4) carrying out any other mandate entrusted to the Minister by the Government.

34. Within the scope of the functions of office, the Minister may enter into agreements with any person or partnership and, in accordance with the applicable legislative provisions, enter into an agreement with a government other than the Gouvernement du Québec, a department of such a government, an international organization, or a body of such a government or organization.

35. If a public body fails to comply with any of its obligations under this Charter, the Minister may, in collaboration with the minister responsible for the body, require that it remedy the failure or that it take, within a specified time, the corrective measures determined by the Minister. The public body must inform the Minister of the corrective measures it has taken.

In the case of a body or person referred to in Chapter VII, this power resides with the Minister responsible for the Educational Childcare Act.

CHAPTER X

POWERS OF THE GOVERNMENT

36. The Government may make regulations to facilitate the implementation of this Charter, including regulations defining the terms and expressions used in the Charter or their scope, in particular by determining the cases and

circumstances in which and the conditions under which an object, by its conspicuous nature, overtly indicates a religious affiliation.

37. The Government may make a body, institution or public office, or a category of the same, subject to one or more provisions of this Charter. It may also determine terms and conditions.

The Government must publish a notice to that effect in the *Gazette officielle du Québec* at least 60 days before the body, institution or public office or category of the same becomes subject to those provisions.

Schedule III lists the bodies, institutions and offices thus made subject to one or more provisions of this Charter, the applicable provisions, and any terms and conditions.

CHAPTER XI

AMENDING PROVISIONS

ACT RESPECTING THE NATIONAL ASSEMBLY

38. Section 9 of the Act respecting the National Assembly (chapter A-23.1) is amended by adding the following sentence at the end: “In its rules of procedure, the Assembly may include rules to govern the wearing of religious symbols by Members.”

39. Section 114 of the Act is amended by adding the following paragraph at the end:

“A member of the Office may bring before the Office for approval the presence of a religious symbol in the premises of the National Assembly.”

CHARTER OF HUMAN RIGHTS AND FREEDOMS

40. The preamble to the Charter of human rights and freedoms (chapter C-12) is amended by inserting the following paragraph after the fourth paragraph:

“Whereas equality between women and men and the primacy of the French language as well as the separation of religions and State and the religious neutrality and secular nature of the State are fundamental values of the Québec nation;”.

41. Section 9.1 of the Charter is amended by adding the following sentence at the end of the first paragraph: “In exercising those freedoms and rights, a person shall also maintain a proper regard for the values of equality between women and men and the primacy of the French language, as well as the separation of religions and State and the religious neutrality and secular nature of the State, while making allowance for the emblematic and toponymic elements of Québec’s cultural heritage that testify to its history.”

42. The Charter is amended by inserting the following section after section 20.1:

“20.2. An accommodation resulting from the application of section 10 consists in the adaptation of a norm or general practice in order to grant different treatment to a person who would otherwise suffer discriminatory effects because of the application of that norm or practice.

Such an accommodation must be consistent with the right to equality between women and men.

The accommodation must be reasonable, that is, not impose undue hardship with regard to, among other considerations, the rights of others, public health and safety, the effects on the proper operation of the organization, and the costs involved.

In the case of a State body, an accommodation must not compromise the separation of religions and State or the religious neutrality and secular nature of the State.”

EDUCATIONAL CHILDCARE ACT

43. Section 5 of the Educational Childcare Act (chapter S-4.1.1) is amended by adding “, in keeping with the values of Québec society, which include equality between women and men and the religious neutrality and secular nature of the State” at the end of subparagraph 2 of the first paragraph.

CHAPTER XII

TRANSITIONAL AND FINAL PROVISIONS

44. Section 5 only applies on the expiry of a transition period ending on (*insert the date that is one year after the date of assent to this Act*) to a person who, on (*insert the date of assent to this Act*), is

- (1) a personnel member of a public body;
- (2) a person referred to in section 8; or
- (3) a personnel member of a body referred to in the first paragraph of section 27.

45. A municipality may, by a decision made by its council before (*insert the date that is one year after the date of assent to this Act*), following a public consultation meeting held in the manner determined by government regulation extend the transition period provided for in section 44 with regard to all or some of its personnel members referred to in that section, except members of its police force and fire protection service. The transition period cannot, however, go beyond (*insert the date that is five years after the date of assent*

to this Act). In the case of a municipality whose territory is divided into boroughs, the decision to make such an exemption is made by the borough council as regards personnel members whose functions relate to responsibilities under the council's authority.

Subject to the same rules, a general and vocational college, a university-level educational institution or a public health or social services institution may extend the transition period provided for in section 44.

The municipality, borough, college or institution must promptly inform the Minister in writing of its decision. It must specify the grounds for the decision as well as the measures it intends to take for the period concerned so as to ensure that at the end of the period, all its personnel members are able to comply with section 5.

46. A public health or social services institution that has used the maximum four-year extension period provided for in section 45 may request that the Government extend the period again with regard to all or some of the personnel concerned. Such a request must be made during the year that precedes (*insert the date that is five years after the date of assent to this Act*).

In deciding whether or not to extend the transition period, the Government takes into account, among other things,

(1) the history of the institution, the conditions under which it was founded, and the fact that a confessional dimension existed continuously within the institution before (*insert the date of assent to this Act*);

(2) the measures taken by the institution to achieve the objectives of this Act; and

(3) the effects on the pursuit of the institution's mission and the delivery of its services.

If the Government grants an extension, it determines the personnel concerned, the duration of the extension and any other conditions.

Such a decision is tabled in the National Assembly by the Minister within 15 days or, if the Assembly is not sitting, within 15 days of resumption. It is also published in the *Gazette officielle du Québec* as soon as possible after being tabled.

47. Before (*insert the date that is one year after the date of assent to this Act*), public bodies referred to in paragraphs 1 to 4 or 8 to 10 of Schedule I must adopt a policy to implement the prescriptions of the Charter established by this Act. All other public bodies must adopt such a policy before (*insert the date that is two years after the date of assent to this Act*).

A body that is established or becomes subject to that Charter after (*insert the date of assent to this Act*) must adopt such a policy within two years after it is established or becomes subject to the Charter.

48. Before (*insert the date that is one year after the date of assent to this Act*), the Minister responsible for the Educational Childcare Act (chapter S-4.1.1) must develop the implementation policy applicable to the bodies and persons referred to in Chapter VII.

49. The Government may, by a regulation made before (*insert the date that is one year after the date of assent to this Act*), enact any other transitional provision or measure conducive to the carrying out of this Act.

50. Not later than (*insert the date that is four years after the date of assent to this Act*), the Minister must report to the Government on the administration of the Charter established by this Act. The Minister may make recommendations to the Government as to the advisability of maintaining in force or amending certain of its provisions.

The report is tabled by the Minister in the National Assembly within 15 days or, if the Assembly is not sitting, within 15 days of resumption.

51. The Minister responsible for Democratic Institutions and Active Citizenship is responsible for the administration of this Act, except Chapter XI.

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

SCHEDULE I
(Section 2, par. 1)

PUBLIC BODIES

- (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), and the Caisse de dépôt et placement du Québec;
- (3) bodies whose personnel is appointed in accordance with the Public Service Act (chapter F-3.1.1);
- (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);
- (5) municipalities, metropolitan communities, intermunicipal boards, public transit authorities, local development centres, regional conferences of elected officers and municipal housing bureaus, with the exception of 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) school boards established under the Education Act (chapter I-13.3), 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);
- (7) health and social services agencies and public institutions governed by the Act respecting health services and social services (chapter S-4.2), except the regional board and public institutions referred to in Part IV.1 of that Act and the public institution referred to in Part IV.3 of that Act, joint procurement groups referred to in section 383 of that Act, and health communication centres referred to in the Act respecting pre-hospital emergency services (chapter S-6.2);
- (8) persons appointed or designated by the National Assembly to an office under its authority;
- (9) bodies to which the National Assembly or any of its committees appoints the majority of the members; and
- (10) persons listed in Schedule 1 to the Financial Administration Act, or whose personnel is appointed in accordance with the Public Service Act.

SCHEDULE II
(Section 2, par. 2)

PERSONS CONSIDERED PERSONNEL MEMBERS OF A PUBLIC
BODY

(1) a member of the management personnel of a public body, including an administrator of state within the meaning of the Public Service Act (chapter F-3.1.1) and any other director or member of a body who receives remuneration, other than a reimbursement of expenses, from the body, except an elected person;

(2) persons described in paragraph 8 or 10 of Schedule I;

(3) physicians, dentists and midwives who practise in a centre operated by a public health or social services institution referred to in paragraph 7 of Schedule I.

SCHEDULE III
(Section 37)

**BODIES, INSTITUTIONS AND OFFICES MADE SUBJECT TO THIS
CHARTER BY THE GOVERNMENT – APPLICABLE PROVISIONS –
TERMS AND CONDITIONS**

*(insert the bodies, institutions and offices made subject by the Government
to one or more provisions of this Charter, and the terms and conditions)*

