



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SEVENTH LEGISLATURE

Bill 80

An Act to amend the Police Act

Introduction

**Introduced by
Mr. Jacques Chagnon
Minister of Public Security**

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EXPLANATORY NOTES

The main objective of this bill is to introduce a process by which a police officer may apply for a pardon with respect to conduct constituting a transgression of the Code of ethics. It determines admissibility criteria for such an application.

The bill confers on the Comité de déontologie policière the responsibility to assess whether there is just cause for granting a pardon to a police officer, considering such factors as the seriousness of the transgression and the police officer's conduct since the penalty was imposed. It makes provision for a pardon certificate to be issued by the ethics committee.

The bill establishes the principle whereby a pardon restores a police officer's reputation even though it does not erase the facts of the past.

The bill also allows the Police Ethics Commissioner to apply for the revocation of a pardon if new facts could have warranted a different decision had they been known in time.

Lastly, the bill simplifies the appointment process for certain officers of the Sûreté du Québec, apart from the director general and the assistant directors general, by transferring that responsibility from the Government to the Minister.

Bill 80

AN ACT TO AMEND THE POLICE ACT

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 56 of the Police Act (R.S.Q., chapter P-13.1) is amended

(1) by striking out “and the other senior officers” in the second paragraph;

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

“The other senior officers shall be appointed by the Minister on the recommendation of the Director General.”

2. Section 126 of the said Act, amended by section 76 of chapter 2 of the statutes of 2004, is again amended by adding the following paragraph:

“The provisions concerning the director of a police force apply in the same way to the employer of a special constable and, with the necessary modifications, to the employer of a highway controller and of any person having authority over a highway controller.”

3. Section 128 of the said Act is amended by adding the following paragraph after the second paragraph:

“In addition, he shall exercise the functions attributed to him by this Act with respect to the granting of a pardon to a police officer for a transgression of the Code of ethics, and to the revocation of such a pardon.”

4. Section 194 of the said Act is amended by inserting the following subparagraph at the end of the second paragraph:

“(3) to decide any application by a police officer for a pardon for a transgression of the Code of ethics, and any application for the revocation of a pardon granted to a police officer.”

5. Section 236 of the said Act is amended by striking out “or employer concerned”.

6. Section 239 of the said Act is amended by striking out “or the employer” in the third paragraph.

7. Section 244 of the said Act is amended by inserting “, the director of the police force” after “parties” in the first paragraph.

8. Section 253 of the said Act is amended by adding the following paragraph:

“The director of the police force shall inform the Commissioner of the imposition of the penalty decided by the judge.”

9. Division III of Chapter I of Title IV of the said Act is amended by adding the following subdivision after subdivision 3 comprising sections 240 to 255:

“§ 4. — *Pardons*

“255.1. An active police officer or a police officer who has resigned or retired may apply for a pardon for a transgression of the Code of ethics if the admissibility criteria listed in section 255.9 are met.

A police officer who has been discharged or dismissed for transgressing the Code of ethics may not apply for a pardon.

“255.2. A pardon may be applied for three years after the penalty is enforced in the case of a warning, reprimand or rebuke, and five years after the penalty is enforced in the case of a suspension or demotion.

A police officer who, due to resignation, dismissal or retirement, could not be imposed a penalty and was consequently declared disqualified from acting as a peace officer may apply for a pardon five years after the end of the disqualification period.

A pardoned police officer who is imposed a penalty for a new transgression may apply for a pardon five years after the penalty for that transgression is enforced.

“255.3. If several penalties were imposed on the police officer simultaneously, the waiting period for applying for a pardon is the one applicable for the most serious penalty.

“255.4. The application for a pardon shall identify all the transgressions committed as well as the penalty for each of them, specifying the authority that rendered the final decision and the reference number of the decision.

“255.5. The application for a pardon shall be filed in the office of the Committee, with the amount required for processing enclosed.

“255.6. The clerk shall immediately acknowledge receipt of the police officer’s application and shall send a copy of the application to the director of the police force that imposed the penalty for the transgression for which a pardon is requested, to the police officer’s director on the date the application is filed and to the Commissioner.

“255.7. The director of the police force concerned shall check whether the police officer has a judicial record or is under prosecution for a criminal offence. If the check is done by an employer to which this chapter applies, the Sûreté du Québec shall provide the employer with the required information on request.

The director of the police force shall send the clerk the findings in writing not later than 20 days after the date on which the application for a pardon is filed.

“255.8. The Commissioner shall check whether a complaint with respect to the police officer is pending before the Commissioner. The Commissioner shall also record the date on which the penalty for the transgression for which the pardon is applied for was imposed.

The Commissioner shall send the clerk the findings in writing not later than 10 days after the date on which the application for a pardon is filed.

“255.9. The clerk shall verify the admissibility of the police officer’s application on the basis of the following criteria only:

- (1) the applicable waiting period has been observed;
- (2) the application is complete and the required processing fee is enclosed;
- (3) the police officer does not have a judicial record;
- (4) the police officer is not under prosecution for a criminal offence;
- (5) there is no complaint concerning the police officer pending before the Commissioner;
- (6) there is no application before the ethics committee to review a decision of the Commissioner concerning the police officer;
- (7) there is no citation against the police officer before the ethics committee;
- (8) there is no appeal from a decision of the Committee pending before the Court of Québec;
- (9) the police officer is not under another penalty.

“255.10. If the application meets all the admissibility criteria, the clerk shall send it to the Committee for assessment.

If the application does not meet the admissibility criteria, the clerk shall inform the police officer in writing and with reasons.

If the ground for inadmissibility no longer exists, the police officer may file a new application with supporting evidence. The clerk shall verify the admissibility of the application and, if applicable, submit it to the Committee for assessment.

“255.11. When assessing an application, the Committee shall consider the seriousness of the transgression and the conduct of the police officer since the imposition of the resulting penalty.

“255.12. If the Committee considers it necessary in order to weigh the merits of the application, it may invite the police officer concerned, the director of the police force that imposed the penalty for the transgression for which the pardon is requested, the police officer’s director on the date of the application and the Commissioner to present observations either in writing and within a specified period or at a sitting convened by the Committee when and where it determines.

It may also require any information or additional documents it considers necessary.

The clerk shall send the persons concerned a notice containing the relevant information.

“255.13. A police officer who has been denied a pardon may file a new application with respect to the same transgression if a new fact could warrant a review of the Committee’s initial decision.

Likewise, the Commissioner may apply for the revocation of a pardon granted to a police officer if a new fact is discovered which, had it been known in time, could have warranted a different decision.

“225.14. For the purpose of assessing applications provided for in the preceding section or an application by a pardoned police officer who is imposed a penalty for a new transgression of the Code of ethics, the Committee is required to invite the persons referred to in section 255.12 to submit observations in writing or before the Committee, as determined by the latter. The second and third paragraphs of that section also apply to such applications.

“255.15. The rules of evidence, procedure and practice with respect to pardons shall be prescribed by a by-law of the Committee. The same applies to the application processing fee.

A by-law adopted under the first paragraph shall be submitted to the Government for approval.

Subdivision 2 does not apply to pardons.

“255.16. Decisions of the Committee with respect to pardons are definitive.

“255.17. If the Committee decides to grant a pardon, it shall issue a pardon certificate to the police officer concerned. All the transgressions for which the pardon is granted shall be noted on the certificate.

“255.18. Pardon certificates issued by the Committee shall be recorded in the register kept for that purpose in the office of the Committee.

“255.19. The clerk shall send a copy of the police officer’s pardon certificate to the director of the police force that imposed the penalty for the transgression for which a pardon was granted, to the police officer’s director on the date the application was filed, to the Commissioner and, if applicable, to the Court of Québec.

The pardon shall be noted in the record of the pardoned police officer.

These provisions apply in the same way to the revocation of a pardon.

“255.20. The purpose of a pardon is to restore the police officer’s reputation; it does not, however, have the effect of erasing the facts of the past. The transgression for which the pardon was granted cannot be invoked against the police officer, except if the pardon is revoked.”

10. This Act comes into force on the date to be set by the Government, except sections 2, 5 and 6, which come into force on the date of coming into force of section 76 of chapter 2 of the statutes of 2004.

