



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FOURTH LEGISLATURE

Bill 14

An Act to amend the Code of Civil Procedure regarding family mediation

Introduction

**Introduced by
Mr Gil Rémillard
Minister of Justice**

**Québec Official Publisher
1992**

EXPLANATORY NOTES

The object of this bill amending the Code of Civil Procedure is to provide that the court may, at any time during the hearing of a contested application in a family matter, order the hearing adjourned for a specified period and refer the parties to the Family Mediation Service or to the mediator of their choice.

In addition, the bill stipulates that the mediation must be conducted by a certified mediator within the meaning of the regulation made by the Government.

Bill 14

An Act to amend the Code of Civil Procedure regarding family mediation

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Article 815.2 of the Code of Civil Procedure (R.S.Q., chapter C-25) is amended by replacing the first paragraph by the following paragraph:

“815.2 At any time before judgment, the court, with the consent of the parties, may adjourn the hearing of the application for the period it determines, with a view to favouring either the reconciliation of the parties or their conciliation, in particular, through mediation.”

2. The said Code is amended by inserting, after article 815.2, the following articles:

“815.2.1 At any time during the hearing of a contested application, the court may, if it deems it in the best interests of the parties and the children, if any, order the adjournment of the hearing and the referral of the parties to the Family Mediation Service of the Superior Court which shall designate a mediator or, at their request, to the mediator of their choice, for the settlement of one or more matters relating to the custody of the children, the support due to the spouse or children, the family patrimony or other patrimonial rights resulting from the marriage.

Parties who are referred by the court to a mediator of their choice are bound to pay the mediator’s fee; the parties shall contribute equally, unless the court determines otherwise.

The hearing is adjourned for the period determined by the court, not exceeding ninety days. At the expiry of that period, the hearing

is continued, unless the parties expressly agree to an extension for a period determined by the court. The parties must begin the mediation process within twenty days after the referral order.

The court shall make all appropriate orders to safeguard the rights of the parties and children for such time and on such conditions as it determines.

The judge presiding over a pre-trial conference may also order an adjournment and refer the parties to mediation in accordance with this article.

“815.2.2 On or before the expiry of the period determined under article 815.2.1, the mediator shall file the mediation report at the office of the court and transmit it to the parties and their attorneys. The report shall record the attendance of the parties and the matters on which agreement was reached; it shall contain no other information.”

3. Article 815.3 of the said Code is replaced by the following article:

“815.3 Nothing said or written during a conference of reconciliation or conciliation, including a conference of mediation, is admissible as evidence in a court proceeding unless it is a particular mentioned in article 815.2 and the parties and the reconciliator, conciliator or mediator, as the case may be, consent to it being admitted as evidence.”

4. The said Code is amended by inserting, after article 827.1, the following articles:

“827.2 Any mediation conducted prior to or during proceedings in family matters shall be conducted by a certified mediator.

“827.3 The Government, by regulation, may establish the conditions a mediator must satisfy to be certified and may designate the persons, bodies or associations having authority to certify a mediator.

The Government may also establish, by regulation, a tariff of fees payable by the Family Mediation Service of the Superior Court to a certified mediator for the carrying out of a mediation mandate given to him by the Service.

“827.4 If expedient, the Minister of Justice shall determine, by order, for what purposes, other than those set out in article 815.2.1,

the Family Mediation Service of the Superior Court may be used subject to the conditions he determines.”

[[**5.** The sums required for the administration of this Act for the fiscal year 1992-93 are taken out of the consolidated revenue fund, as is determined by the Government.]]

6. The provisions of this Act will come into force on the date or dates fixed by the Government.
