
NATIONAL ASSEMBLY

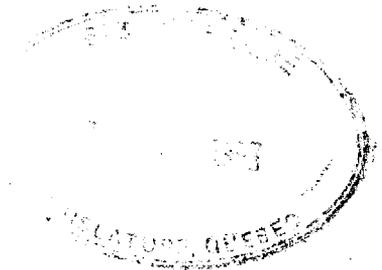
THIRTY-SECOND LEGISLATURE

FOURTH SESSION

Bill 55

An Act to amend the Civil Code and other legislation respecting adoption

First reading



Introduced by
Mr Pierre Marc Johnson
Minister of Social Affairs

EXPLANATORY NOTES

The object of this bill is to improve the legal safeguards of adopters and adopted persons by clarifying the rules of law applicable in international adoptions. It also has the object of establishing rules to ensure that such adoptions are carried out in accordance with the law and in the interests of the adopted person.

More specifically, this bill amends the Civil Code of Québec by providing therein, first, that the foreign law will determine the conditions respecting the eligibility for adoption of the child, whereas Québec law will govern applications relating to adopters. Furthermore, it provides different rules of law according as the adoption proceedings are in Québec or before a foreign court.

This bill also amends the Code of Civil Procedure in order to introduce into it a procedure for recognizing foreign judgments of adoption, and amends the Civil Code of Lower Canada in order to establish a specific rule of proof to the effect that a certified copy of a foreign law is prima facie proof of its content.

In addition, amendments are made to the Youth Protection Act to correct certain problems of interpretation and to increase the fines under that Act.

Finally, this bill provides a transitional provision to regularize the civil status of foreign children adopted prior to the coming into force of this bill.

ACTS AMENDED BY THIS BILL

- the Civil Code of Lower Canada;
- the Civil Code of Québec;
- the Code of Civil Procedure (R.S.Q., chapter C-25);
- the Youth Protection Act (R.S.Q., chapter P-34.1).

Bill 55

An Act to amend the Civil Code
and other legislation respecting
adoption

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CIVIL CODE OF LOWER CANADA

1. Article 1220 of the Civil Code of Lower Canada is amended by inserting, after paragraph 1, the following paragraph:

“1.1 In matters of adoption, any copy of a foreign law, not contemplated in article 1207, certified by the secretary or the executive government of that foreign state;”.

CIVIL CODE OF QUÉBEC

2. Article 596 of the Civil Code of Québec is amended by adding, at the end, the following paragraph:

“In the case of the adoption of a child domiciled outside Québec, the rules respecting consent to the adoption and eligibility for adoption of the child are those provided by the law of his domicile.”

3. The said Code is amended by inserting, after article 617, the following article:

“**617.1** Before granting an order of placement of a child domiciled outside Québec, the court satisfies itself that the rules respecting consent to the adoption and eligibility for adoption of the child have been complied with. It also satisfies itself that the application has been examined by the director of youth protection and that the adopter has acted through the Minister of Social Affairs, the director of youth protection or an agency recognized by the Minister for such purpose.

If the placement takes place pursuant to an agreement entered into, in accordance with the Youth Protection Act, with a foreign government or one of its departments or agencies, the court shall verify only whether the procedure followed is in conformity with that provided in the agreement.”

4. The said Code is amended by inserting, after article 622, the following article:

“622.1 The court called upon to recognize an adoption judgment rendered outside Québec satisfies itself that the judgment creates a bond of filiation under a foreign law. If the adopter is domiciled in Québec at the time of the adoption, the court also satisfies itself that the application has been examined by the director of youth protection and that the adopter has acted through the Minister of Social Affairs, the director of youth protection or an agency recognized by the Minister for such purpose.”

5. Article 623 of the said Code is amended by adding, at the end, the following paragraph:

“The court may also recognize an adoption judgment rendered outside Québec notwithstanding the death of the adopter.”

6. The said Code is amended by inserting, after article 626, the following article:

“626.1 The recognition of an adoption judgment produces the same effects as an adoption judgment rendered in Québec from the pronouncing of the adoption judgment rendered outside Québec.”

CODE OF CIVIL PROCEDURE

7. Article 813.3 of the Code of Civil Procedure (R.S.Q., chapter C-25) is amended by replacing the words “or adoption”, in the fourth line, by the words “, adoption or recognition of judgments of adoption rendered outside Québec”.

8. Article 825 of the said Code is amended by striking out the second paragraph.

9. Article 825.1 of the said Code is replaced by the following article:

“825.1 A notice of the application for placement stating the name of the applicant and his place of domicile is served on the child ten years of age or older. Where the child’s father, mother or tutor is domiciled in Québec and has given consent to adoption within one year preceding the application, notice of the application is served on him or her by the director of youth protection.”

10. The said Code is amended by inserting, after article 825.5, the following section:

“SECTION V

“RECOGNITION OF JUDGMENTS
RENDERED OUTSIDE QUÉBEC

“825.6 The application for recognition of a judgment of adoption rendered outside Québec must be presented by the adopter or the adopted person.

The application, in order to be admissible, must be accompanied with certified copies of the judgment of adoption and of the foreign law.

“825.7 The applicant may attach accessory applications to his application, such as for the change of the name or given name of the adopted person and the alteration of the registers of civil status.”

YOUTH PROTECTION ACT

11. Section 72.2 of the Youth Protection Act (R.S.Q., chapter P-34.1) is amended by replacing the second paragraph by the following paragraph:

“The Minister of Social Affairs may also recognize, for the purposes of section 72.3, any other organization dealing with the defence of children’s rights, the promotion of their interests and the improvement of their living conditions.”

12. Section 72.3 of the said Act is amended by replacing the first paragraph by the following paragraph:

“72.3 Whether the adoption takes place in Québec or elsewhere, an adopter domiciled in Québec at the time of the adoption may adopt a child domiciled outside Québec only through the intermediary of the Minister of Social Affairs, the director or a recognized body.”

13. Section 135.1 of the said Act is amended

(1) by replacing the last five lines of the first paragraph by the following:

“is guilty of an offence and liable, on summary proceedings, in addition to costs, to a fine of \$1 000 to \$3 000, in the case of an individual, and \$2 000 to \$6 000, in the case of a corporation.”;

(2) by striking out, in the second paragraph, the following: “and, where such is the case, the imprisonment”.

FINAL PROVISIONS

14. Persons contemplated by a judgment of adoption rendered outside Québec before (*insert here the date of sanction of this Act*), while the adopter was domiciled in Québec, have the same rights and obligations as if the adoption had been granted in Québec.

15. This Act shall operate notwithstanding the provisions of sections 2 and 7 to 15 of the Constitution Act, 1982 (Schedule B of the Canada Act, chapter 11 in the 1982 volume of the Acts of the Parliament of the United Kingdom).

16. This Act comes into force on the day of its sanction.