



NATIONAL ASSEMBLY

FIRST SESSION

FORTY-FIRST LEGISLATURE

Bill 62

**An Act to foster adherence to State
religious neutrality and, in particular,
to provide a framework for religious
accommodation requests in certain
bodies**

Introduction

**Introduced by
Madam Stéphanie Vallée
Minister of Justice**

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EXPLANATORY NOTES

The purpose of this bill is to establish measures to foster adherence to State religious neutrality. For that purpose, it provides, in particular, that personnel members of public bodies must demonstrate religious neutrality in the exercise of their functions, being careful to neither favour nor hinder a person because of the person's religious affiliation or non-affiliation. However, this duty does not apply to personnel members who, in certain bodies, provide spiritual care and guidance services or are in charge of providing instruction of a religious nature.

Under the bill, personnel members of public bodies and of certain other 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. In addition, persons receiving services from such personnel members must have their face uncovered. An accommodation is possible but must be refused if the refusal is warranted in the context for security or identification reasons or because of the level of communication required.

The bill establishes the conditions under which accommodations on religious grounds may be granted as well as the specific elements that must be considered when dealing with certain accommodation requests.

It specifies that the measures it introduces must not be interpreted as affecting the emblematic and toponymic elements of Québec's cultural heritage, in particular its religious cultural heritage, that testify to its history.

Lastly, special measures with respect to educational childcare services are introduced to ensure that, among other considerations, children's admission is not related to their learning a specific religious belief, dogma or practice and that the activities organized by subsidized childcare providers do not involve learning of a religious or dogmatic nature.

LEGISLATION AMENDED BY THIS BILL:

- Educational Childcare Act (chapter S-4.1.1).

Bill 62

AN ACT TO FOSTER ADHERENCE TO STATE RELIGIOUS NEUTRALITY AND, IN PARTICULAR, TO PROVIDE A FRAMEWORK FOR RELIGIOUS ACCOMMODATION REQUESTS IN CERTAIN BODIES

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

PURPOSE

1. Given the State's religious neutrality, the purpose of this Act is to establish measures to foster adherence to such neutrality. For that purpose, the Act imposes a duty of religious neutrality, in particular, on personnel members of public bodies in the exercise of the functions of office.

A further purpose of the Act is to establish measures that apply when services are provided by public and certain other bodies, in particular the conditions under which an accommodation on religious grounds may be granted.

CHAPTER II

MEASURES FOSTERING ADHERENCE TO STATE RELIGIOUS NEUTRALITY

DIVISION I

SCOPE

2. The measures set out in this chapter apply to the personnel members of the following 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) 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);

(6) public institutions governed by the Act respecting health services and social services (chapter S-4.2), except public institutions referred to in Parts IV.1 and 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); and

(7) bodies to which the National Assembly or any of its committees appoints the majority of the members.

All directors or members of a body referred to in the first paragraph, except elected persons, who receive remuneration, other than a reimbursement of expenses, from such a body are also considered personnel members of the body.

3. For the purposes of this chapter, the following are also personnel members of a public body:

(1) National Assembly personnel members and Lieutenant-Governor staff members;

(2) persons appointed or designated by the National Assembly to an office under its authority and the personnel directed by them;

(3) persons whose personnel is appointed in accordance with the Public Service Act and the personnel directed by them;

(4) commissioners appointed by the Government under the Act respecting public inquiry commissions (chapter C-37) and the personnel directed by them;

(5) 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);

(6) peace officers; and

(7) physicians, dentists and midwives who practise in a centre operated by a public institution referred to in subparagraph 6 of the first paragraph of section 2.

DIVISION II

DUTY OF PERSONNEL MEMBERS OF PUBLIC BODIES

4. In the exercise of their functions, personnel members of public bodies must demonstrate religious neutrality.

They must be careful to neither favour nor hinder a person because of the person's religious affiliation or non-affiliation.

5. The duty of religious neutrality does not apply to personnel members who provide spiritual care and guidance services in a university-level educational institution or general and vocational college referred to in subparagraph 5 of the first paragraph of section 2, in a centre operated by a public institution referred to in subparagraph 6 of that paragraph or in a correctional facility governed by the Act respecting the Québec correctional system (chapter S-40.1).

Nor does that duty apply to personnel members in charge of providing instruction of a religious nature in a university-level educational institution.

6. The duty of religious neutrality does not prevent health professionals from refraining from recommending or providing professional services because of their personal convictions, as permitted by law.

DIVISION III

CONTRACTUAL MEASURES

7. A public body referred to in the first paragraph of section 2 may require any person or partnership with whom it has entered into a service contract or subsidy agreement to fulfill the duty set out in Division II if the contract or agreement relates to the provision of services that are inherent in the body's mission or that are performed in its personnel's place of work. The same applies to any person in authority referred to in any of paragraphs 2 to 4 of section 3.

CHAPTER III

MEASURES WITHIN VARIOUS BODIES

DIVISION I

SCOPE

8. The measures set out in this chapter apply to the personnel members of a body who are referred to in Chapter II and to the personnel members of the following bodies:

(1) childcare centres, home childcare coordinating offices and subsidized day care centres governed by the Educational Childcare Act (chapter S-4.1.1);

(2) institutions accredited for the purposes of subsidies under the Act respecting private education (chapter E-9.1) and institutions whose instructional program is the subject of an international agreement within the meaning of the Act respecting the Ministère des Relations internationales (chapter M-25.1.1); and

(3) private institutions under agreement, intermediary resources and family-type resources governed by the Act respecting health services and social services.

For the purposes of this chapter, recognized subsidized home childcare providers governed by the Educational Childcare Act and persons directed by them are also considered personnel members of a body. The same applies to persons not otherwise subject to this chapter, while they are exercising functions provided for by law for which they were appointed or designated by the Government or a minister.

DIVISION II

SERVICES WITH FACE UNCOVERED

9. Personnel members of 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.

Similarly, persons receiving services from such personnel members must have their face uncovered.

An accommodation that involves an adaptation of either of those rules is possible but must be refused if the refusal is warranted in the context for security or identification reasons or because of the level of communication required.

DIVISION III

RELIGIOUS ACCOMMODATIONS

10. A personnel member of a body who deals with a request for an accommodation on religious grounds 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; and

(3) the accommodation requested does not compromise the principle of State religious neutrality.

The accommodation must be reasonable in that it must 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 body, and the costs involved.

An accommodation may be granted only if the person making the request has cooperated in seeking a solution that meets the criterion of reasonableness.

11. When a request for an accommodation on religious grounds by a personnel member involves an absence from work, more specific consideration must be given to the following factors:

(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 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 by the person making the request, including modifying their work schedule, accumulating or using their bank of hours or vacation days, or their 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.

12. If a request for an accommodation 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 to ensure that the request 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.

CHAPTER IV

INTERPRETATIVE AND MISCELLANEOUS PROVISIONS

13. The measures introduced in this Act must not be interpreted as affecting the emblematic and toponymic elements of Québec's cultural heritage, in particular its religious cultural heritage, that testify to its history.

14. It is incumbent on the person exercising the highest administrative authority over the personnel members referred to in Chapters II and III to take the necessary measures to ensure compliance with the measures set out in those chapters.

15. The Minister of Justice is responsible for the administration of this Act.

CHAPTER V

AMENDING PROVISIONS

EDUCATIONAL CHILDCARE ACT

16. The Educational Childcare Act (chapter S-4.1.1) is amended by inserting the following section after section 90:

“90.1. In order to foster social cohesion and facilitate the integration of children without regard to social or ethnic origin or religious affiliation, subsidized childcare providers must ensure that

- (1) children's admission is not related to their learning a specific religious belief, dogma or practice;
- (2) the objective of educational activities and communication is not teach such a belief, dogma or practice; and

(3) a repeated activity or practice stemming from a religious precept is not authorized if its aim, through words or actions, is to teach children that specific religious belief, dogma or practice.

However, the purpose of the first paragraph is not to prevent

(1) a special cultural event linked to a celebration with a religious connotation or a celebration originating from a religious tradition;

(2) a diet based on a religious precept or a tradition;

(3) the establishment of a program of activities to reflect the diversity of cultural and religious realities; and

(4) participation in an activity whose theme is inspired by a custom.

The Minister may, by a directive to subsidized childcare providers and home childcare coordinating offices, prescribe special terms to govern the application and implementation of this section.”

17. Section 97 of this Act is amended by adding the following subparagraph at the end of the first paragraph:

“(9) refuses or neglects to comply with section 90.1 or a directive given by the Minister under that section.”

CHAPTER VI

FINAL PROVISION

18. The provisions of this Act come into force on the date or dates to be set by the Government.

