



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FIFTH LEGISLATURE

Bill 39
(1997, chapter 75)

**An Act respecting the protection of
persons whose mental state presents
a danger to themselves or to others**

**Introduced 14 June 1996
Passage in principle 12 June 1997
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Assented to 18 December 1997**

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EXPLANATORY NOTES

This bill introduces a reform of the Mental Patients Protection Act.

The rules on psychiatric assessment contained in the Civil Code of Québec are completed by specifying which health care professionals are authorized to carry out examinations to determine whether or not a person is a danger to himself or to others. The various mandatory elements of a psychiatric examination report are specified.

Within the scope of the rules set out in the Civil Code of Québec, the bill defines the rules applicable in matters concerning the confinement of persons whose mental state presents a danger to themselves or to others. The type of institution to which such persons may be directed, and the procedure to be followed when a person is placed under confinement following a court order are defined. In addition, the bill provides for the periodical examination of persons under confinement and establishes the conditions on which they may be transferred to another health care institution.

The bill also provides for temporary confinement for psychiatric assessment under a court order and, in cases of emergency, for preventive confinement of persons against their will and without court authorization where their health or safety, or that of other persons, is in grave and immediate danger.

The bill contains various rules of procedure to ensure that persons under confinement, and their close relatives, are kept fully informed of the rights of persons under confinement and the recourses available to them. The bill allows the Administrative Tribunal of Québec to revise, upon application or on its own initiative, any decision made regarding a person placed under confinement in a health institution.

As well, amendments are made to the Civil Code of Québec to require that the psychiatric assessment leading to the confinement of a person be based on two psychiatric examination reports both concluding that confinement is necessary. The bill also amends the legislation respecting health services and social services to regulate the use of restraining measures by institutions.

Lastly, the bill includes consequential amendments to related legislation.

LEGISLATION AMENDED BY THIS BILL:

- Civil Code of Québec;
- Code of Civil Procedure (R.S.Q., chapter C-25);
- Code of Penal Procedure (R.S.Q., chapter C-25.1);
- Act respecting the Commission des affaires sociales (R.S.Q., chapter C-34);
- Public Curator Act (R.S.Q., chapter C-81);
- Act respecting the Ministère de la Santé et des Services sociaux (R.S.Q., chapter M-19.2);
- Notarial Act (R.S.Q., chapter N-2);
- Agricultural Products, Marine Products and Food Act (R.S.Q., chapter P-29);
- Act respecting the determination of the causes and circumstances of death (R.S.Q., chapter R-0.2);
- Act respecting health services and social services (R.S.Q., chapter S-4.2);
- Act respecting health services and social services for Cree Native persons (R.S.Q., chapter S-5);
- Marine Products Processing Act (R.S.Q., chapter T-11.01);
- Act respecting administrative justice (1996, chapter 54).

LEGISLATION REPLACED BY THIS BILL:

- Mental Patients Protection Act (R.S.Q., chapter P-41).

Bill 39

An Act respecting the protection of persons whose mental state presents a danger to themselves or to others

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

PRELIMINARY PROVISION

1. The provisions of this Act complement the provisions of the Civil Code of Québec concerning the confinement in a health and social services institution of persons whose mental state presents a danger to themselves or to others, and the provisions concerning the psychiatric assessment carried out to determine the necessity for such confinement.

CHAPTER I

PSYCHIATRIC EXAMINATION

2. The psychiatric examination to which a person is required to submit by law or by a court decision must be carried out by a psychiatrist. However, if it is not possible to obtain the services of a psychiatrist in due time, the examination may be carried out by any other physician.

The person who carries out the examination may not be the spouse or *de facto* spouse, a close relative or relative by marriage or the representative of the person undergoing the examination or of the person who requested the examination.

3. The report made following a psychiatric examination must be signed by the examining physician. He must, in particular, state in the report

(1) that he himself has examined the person;

(2) the date of the examination;

(3) his diagnosis, even if only provisional, concerning the mental state of the person;

(4) in addition to what is provided in article 29 of the Civil Code of Québec, his opinion as to the gravity and probable consequences of the person's mental state;

(5) the reasons and facts upon which his opinion and diagnosis are based and, among the facts mentioned, those which he himself has observed and those which have been communicated to him by others.

4. Where an institution has been required to administer a psychiatric examination, it is incumbent upon the director of professional services or, where there is no such director, upon the executive director of the institution to transmit the physician's report to the court that ordered the examination.

5. The disclosure of the report by the institution is governed by the provisions relating to access to the person's record contained in the legislation respecting health services and social services, and does not require the authorization of the court under article 29 of the Civil Code of Québec.

CHAPTER II

CONFINEMENT

DIVISION I

PREVENTIVE CONFINEMENT AND TEMPORARY CONFINEMENT

6. Only an institution operating a local community service centre equipped with the necessary facilities or a hospital centre may be required to place a person under preventive confinement or temporary confinement for psychiatric examination.

7. A physician practising in such an institution may, notwithstanding the absence of consent, place a person under preventive confinement for not more than seventy-two hours in a facility maintained by the institution, without the authorization of the court and prior to psychiatric examination, if he is of the opinion that the mental state of the person presents a grave and immediate danger to himself or to others.

The physician who places the person under confinement must immediately inform the director of professional services or, where there is no such director, the executive director of the institution.

On the expiry of the seventy-two hour period, the person must be released, unless a court has ordered an extension of the confinement for psychiatric assessment. However, if the seventy-two hour period ends on a Saturday or on a non-judicial day, if no judge having jurisdiction in the matter is able to act and if termination of confinement presents a danger, the confinement may be extended until the expiry of the next judicial day.

8. A peace officer may, without the authorization of the court, take a person against his will to an institution described in section 6

(1) at the request of a member of a crisis intervention unit who considers that the mental state of the person presents a grave and immediate danger to himself or to others;

(2) at the request of the person having parental authority, the tutor to a minor or any of the persons mentioned in article 15 of the Civil Code of Québec, where no member of a crisis intervention unit is available in due time to assess the situation. In such a case, the peace officer must have good reason to believe that the mental state of the person concerned presents a grave and immediate danger to himself or to others.

Subject to the provisions of section 23 and to more pressing medical emergencies, the institution to which the person is brought must take charge of the person upon arrival and have the person examined by a physician, who may place the person under preventive confinement in accordance with section 7.

In this section, “crisis intervention unit” means a unit designed to take action in crisis situations pursuant to the mental health service organization plans provided for by the legislation respecting health services and social services.

DIVISION II

CONFINEMENT AUTHORIZED BY A COURT PURSUANT TO ARTICLE 30 OF THE CIVIL CODE OF QUÉBEC

9. Only an institution operating a hospital centre, rehabilitation centre, residential and long-term care centre or reception centre that is equipped with the necessary facilities for receiving and treating mentally ill persons, may be required to place a person

under confinement following a court judgment pursuant to article 30 of the Civil Code of Québec.

10. Where the court has set a duration of confinement exceeding 21 days, the person under confinement must be examined periodically to ascertain whether continued confinement is necessary, and reports of such examinations must be produced at the following times :

- (1) 21 days from the date of the decision made by the court pursuant to article 30 of the Civil Code of Québec;
- (2) every three months thereafter.

The psychiatric examination reports shall be kept by the institution as part of the person's record.

11. A person under confinement may, at his request, be transferred to another institution, if the organization and resources of that institution permit of such a transfer. Subject to the same condition, the attending physician may transfer the person to another institution which he considers better able to meet the person's needs. In the latter case, the physician must obtain the consent of the person concerned, unless the transfer is necessary to ensure the person's safety or that of other persons. The physician's decision in that respect must contain reasons and be filed in the person's record.

No transfer may take place unless the attending physician attests, by way of a certificate containing reasons, that in his opinion such a measure does not present any serious and immediate risks for the person or for others.

Following a transfer, confinement continues in the new institution and a copy of the record of the person under confinement shall be forwarded to that institution.

12. Confinement ends, with no further formality,

- (1) as soon as a certificate attesting that confinement is no longer justified has been issued by the attending physician;
- (2) on the expiry of a time limit prescribed by section 10, if no psychiatric examination report has been produced by that time;
- (3) on the expiry of the time fixed in the judgment ordering confinement;

(4) upon a decision to that effect by the Administrative Tribunal of Québec or a court of justice.

13. Where a person ceases to be under confinement but must be detained or lodged, otherwise than in accordance with this Act, the institution must take the necessary steps to entrust the person to the care of a person in authority at an appropriate detention centre or lodging facility.

CHAPTER III

RIGHTS AND REMEDIES

DIVISION I

INFORMATION

14. A peace officer acting under section 8 or any person who, in accordance with a court order, takes a person to an institution for confinement and psychiatric assessment must inform him of that fact, of the place where he is being taken and of his right to contact his close relatives and an advocate immediately.

The peace officer or person remains responsible for that person until he is taken in charge by the institution.

15. As soon as the person has been taken in charge by the institution, or as soon as he seems able to understand the information, the institution must inform him of the place where he is being confined, of the reasons for the confinement and of his right to contact his close relatives and an advocate immediately.

16. The institution placing a person under confinement pursuant to a judgment referred to in section 9 must, at the time the person is placed under confinement and after each examination report required by section 10, give the person a document in conformity with the schedule.

If the person under confinement is unable to understand the information contained in the document, the institution shall transmit a copy of it to the person qualified to give consent to the confinement. Should there be no such person, the institution shall make reasonable efforts to transmit the information to a person showing a special interest in the person under confinement.

17. A person under confinement must be allowed to communicate freely and confidentially with the persons of his choice,

unless the attending physician decides, in the interest of the person under confinement, to prohibit or restrict certain communications.

A prohibition or restriction as to communication can only be temporary. It must be set out in writing and contain reasons, and it must be given to the person under confinement and noted in his record.

No restriction may, however, be imposed on communications between the person under confinement and his representative, the person qualified to give consent to the care required by his state of health, an advocate, the Public Curator or the Administrative Tribunal of Québec.

18. The person under confinement must be immediately informed by the institution of the end of the confinement.

19. The institution must, in the case of a minor, give the person having parental authority or, if there is no such person, the tutor, or in the case of a person of full age who is represented, the mandatary, tutor or curator, notice of

(1) the decision of a physician to place the person under preventive confinement pursuant to section 7;

(2) the necessity for continued confinement, after each of the examinations required by section 10;

(3) any application presented to the Administrative Tribunal of Québec under section 21 of which the institution has been informed;

(4) the end of the confinement.

Notice must be given in writing, except a notice under subparagraph 1 of the first paragraph.

DIVISION II

ADMINISTRATIVE TRIBUNAL OF QUÉBEC

20. The institution in which a person is under confinement must inform the Administrative Tribunal of Québec, without delay, of the conclusions of each of the psychiatric examination reports required by section 10, and of the end of the confinement.

21. Any person who is dissatisfied with the continuance of confinement or with a decision made under this Act, with regard to

himself or to a person that he represents or in whom he shows a special interest, may contest the continuance of confinement or the decision before the Administrative Tribunal of Québec. A letter to the Tribunal from the person under confinement setting out the subject and grounds of the contestation constitutes a motion within the meaning of section 110 of the Act respecting administrative justice (1996, chapter 54).

The Tribunal may also act on its own initiative to review the continuance of confinement or a decision made under this Act with regard to any person under confinement.

A proceeding before the Tribunal, or the intervention of the Tribunal on its own initiative, does not suspend confinement or the execution of the decision, unless a member of the Tribunal decides otherwise.

22. An institution must, when so required by the Tribunal, forward to it the complete record of a person under confinement.

CHAPTER IV

MISCELLANEOUS PROVISIONS

23. Any institution which, owing to its organization or resources, is unable to provide for a psychiatric examination or place a person under confinement, must immediately direct any person for whom such services are required to another institution equipped with the necessary facilities.

24. The Minister of Health and Social Services is responsible for the administration of this Act.

CHAPTER V

AMENDING AND FINAL PROVISIONS

25. This Act replaces the Mental Patients Protection Act (R.S.Q., chapter P-41).

26. In any Act, regulation, order in council, order, contract, agreement or other document, any reference to the Mental Patients Protection Act or to a provision thereof is deemed to be a reference to this Act or to the equivalent provision of this Act.

27. Until the coming into force of section 184 of the Act respecting the implementation of the Act respecting administrative

justice (1997, chapter 43) repealing the Act respecting the Commission des affaires sociales (R.S.Q., chapter C-34), a reference to the Administrative Tribunal of Québec in this Act shall be read as a reference to the Commission des affaires sociales.

28. The heading of Section II of Chapter I of Title II of Book I of the Civil Code of Québec (1991, chapter 64) is amended by replacing the words “ESTABLISHMENT AND PSYCHIATRIC EXAMINATION” by the words “INSTITUTION AND PSYCHIATRIC ASSESSMENT”.

29. Article 26 of the said Code is amended by replacing the words “establishment with a view to his undergoing a psychiatric examination or in consequence of a psychiatric examination report” by the words “institution for a psychiatric assessment or following a psychiatric assessment concluding that confinement is necessary”.

30. Article 27 of the said Code is amended

(1) by replacing the words “confined in a health or social services establishment” in the first paragraph by the words “confined temporarily in a health or social services institution”;

(2) by replacing the words “to undergo a psychiatric examination” in the first paragraph by the words “for a psychiatric assessment”;

(3) by inserting, before the last sentence of the first paragraph, the following sentence: “The court may also, where appropriate, authorize any other medical examination that is necessary in the circumstances.”;

(4) by replacing the second paragraph by the following paragraph:

“If the danger is grave and immediate, the person may be placed under preventive confinement, without the authorization of the court, as provided for in the Act respecting the protection of persons whose mental state presents a danger to themselves or to others.”

31. Article 28 of the said Code is replaced by the following article:

“**28.** Where the court orders that a person be placed under confinement for a psychiatric assessment, an examination must be

carried out within twenty-four hours after the person is taken in charge by the institution or, if the person was already under preventive confinement, within twenty-four hours of the court order.

If the physician who carries out the examination concludes that confinement in an institution is necessary, a second psychiatric examination must be carried out by another physician within ninety-six hours after the person is taken in charge by the institution or, if the person was already under preventive confinement, within forty-eight hours of the court order.

If a physician reaches the conclusion that confinement is not necessary, the person must be released. If both physicians reach the conclusion that confinement is necessary, the person may be kept under confinement without his consent or the authorization of the court for no longer than forty-eight hours.”

32. Article 29 of the said Code is amended

(1) by replacing the words “The report of the physician shall” by the words “A psychiatric examination report must” and the word “establishment” by the word “institution”;

(2) by adding, at the end, the following paragraph:

“The report must be filed with the court within seven days of the court order. It may not be disclosed, except to the parties, without the authorization of the court.”

33. Article 30 of the said Code is replaced by the following article:

“30. A court may not authorize confinement in an institution following a psychiatric assessment unless both psychiatric examination reports conclude that confinement is necessary.

A judgment authorizing confinement must also set the duration of confinement.

However, the person under confinement must be released as soon as confinement is no longer justified, even if the set period of confinement has not elapsed.”

34. Article 26 of the Code of Civil Procedure (R.S.Q., chapter C-25) is amended by replacing the words “establishment or psychiatric examination” in subparagraph 5 of the first paragraph by the words “institution or psychiatric assessment”.

35. Article 36.2 of the said Code is amended

(1) by replacing the word “examination”, wherever it occurs in the first paragraph, by the word “assessment”;

(2) by replacing the words “admitted for confinement against his will by an establishment governed by the Acts respecting health services and social services” in the first paragraph by the words “confined against his will in an institution referred to in the Act respecting the protection of persons whose mental state presents a danger to themselves or to others (1997, chapter 75)”.

36. The heading of Section II of Chapter II of Title II of Book V of the said Code is amended by replacing the words “ESTABLISHMENT AND PSYCHIATRIC EXAMINATION” by the words “INSTITUTION AND PSYCHIATRIC ASSESSMENT”.

37. Article 778 of the said Code is amended

(1) by replacing the word “examination”, wherever it occurs, by the word “assessment”;

(2) by replacing the words “admitted for confinement against his will by an establishment governed by the Acts respecting health services and social services” by the words “confined against his will in an institution referred to in the Act respecting the protection of persons whose mental state presents a danger to themselves or to others (1997, chapter 75)”.

38. Article 779 of the said Code is amended by replacing the word “examination” in the first paragraph by the word “assessment”.

39. Article 780 of the said Code is amended by replacing the word “examination” in the first paragraph by the word “assessment”.

40. Article 781 of the said Code is amended

(1) by replacing the word “examination” wherever it occurs in the first paragraph by the word “assessment”;

(2) by replacing the words “establishment governed by the Acts respecting health services and social services” in the first paragraph by the words “institution referred to in the Act respecting the protection of persons whose mental state presents a danger to themselves or to others (1997, chapter 75)”.

41. Article 783 of the said Code is amended by replacing the words “for the purpose of a psychiatric examination or following the filing of a psychiatric examination report” in the second paragraph by the words “for a psychiatric assessment or following a psychiatric assessment”.

42. Article 214 of the Code of Penal Procedure (R.S.Q., chapter C-25.1) is amended

(1) by striking out the word “clinical” in the second line;

(2) by striking out the words “in accordance with the Mental Patients Protection Act (chapter P-41)” in the third and fourth lines.

43. Until the Act respecting the Commission des affaires sociales (R.S.Q., chapter C-34) is repealed by the coming into force of section 184 of chapter 43 of the statutes of 1997, section 25.1 of the Act respecting the Commission des affaires sociales is amended by replacing the words “is confidential” by the words “and the records forwarded to it pursuant to article 782 of the Code of Civil Procedure (R.S.Q., chapter C-25) or pursuant to the Act respecting the protection of persons whose mental state presents a danger to themselves or to others (1997, chapter 75) are confidential”.

44. Section 14 of the Public Curator Act (R.S.Q., chapter C-81) is amended by striking out the second paragraph.

45. The Act respecting the Ministère de la Santé et des Services sociaux (R.S.Q., chapter M-19.2) is amended by inserting, after section 10.1, the following section:

“10.2 The Minister may, by way of a ministerial order published in the *Gazette officielle du Québec*, designate the institutions, among those referred to in sections 6 and 9 of the Act respecting the protection of persons whose mental state presents a danger to themselves or to others (1997, chapter 75), that may receive persons detained under a penal law.”

46. Section 120 of the Notarial Act (R.S.Q., chapter N-2) is amended

(1) by replacing the second sentence of subsection 1 by the following sentence: “The same shall apply to any notary placed under confinement in a health or social services institution pursuant to a court decision under article 30 of the Civil Code.”;

(2) by striking out the words “or prothonotary” in subsection 2;

(3) by replacing the words “institution of protective supervision” in subsection 2 by the words “such institution of protective supervision or any such court decision”.

47. Section 1 of the Agricultural Products, Marine Products and Food Act (R.S.Q., chapter P-29), amended by section 1 of chapter 50 of the statutes of 1996, is again amended by striking out the words “the Mental Patients Protection Act (chapter P-41),” in the sixth and seventh lines of paragraph *k*.

48. Section 37 of the Act respecting the determination of the causes and circumstances of death (R.S.Q., chapter R-0.2) is amended by replacing paragraph 3 by the following paragraph:

“(3) in a facility maintained by a health and social services institution, where the person in whose respect death occurred was under confinement.”

49. The Act respecting health services and social services (R.S.Q., chapter S-4.2) is amended by inserting, after section 118, the following section:

“118.1. Force, isolation, mechanical means or chemicals may not be used to place a person under control in an installation maintained by an institution except to prevent the person from inflicting harm upon himself or others. The use of such means must be minimal and resorted to only exceptionally, and must be appropriate having regard to the person’s physical and mental state.

Any measure referred to in the first paragraph applied in respect of a person must be noted in detail in the person’s record. In particular, a description of the means used, the time during which they were used and a description of the behaviour which gave rise to the application or continued application of the measure must be recorded.

Every institution must adopt a procedure for the application of such measures that is consistent with ministerial orientations, make the procedure known to the users of the institution and evaluate the application of such measures annually.”

50. Section 431 of the said Act is amended by adding, at the end of the second paragraph, the following subparagraph:

“(9) determine the orientations with which the procedure for the application of control measures adopted by an institution under section 118.1 must be consistent.”

51. Section 1 of the Act respecting health services and social services for Cree Native persons (R.S.Q., chapter S-5), amended by section 741 of chapter 43 of the statutes of 1997, is again amended by replacing the words “for close treatment” in the sixth line of subparagraph *k* of the first paragraph by the words “placed under confinement”.

52. Section 2 of the said Act is amended by striking out the third paragraph.

53. Section 86 of the said Act is amended by replacing the words “in close treatment within the meaning of the Mental Patients Protection Act (chapter P-41)” in the first and second lines of subparagraph *b* of the first paragraph by the words “placed under confinement within the meaning of article 30 of the Civil Code of Québec”.

54. The said Act is amended by inserting, after section 150, the following section:

“150.1. Force, isolation, mechanical means or chemicals may not be used to place a person under control in an installation maintained by an institution except to prevent the person from inflicting harm upon himself or others. The use of such means must be minimal and resorted to only exceptionally, and must be appropriate having regard to the person’s physical and mental state.

Any measure referred to in the first paragraph applied in respect of a person must be noted in detail in the person’s record. In particular, a description of the means used, the time during which they were used and a description of the behaviour which gave rise to the application or continued application of the measure must be recorded.

Every institution must adopt a procedure for the application of such measures that is consistent with ministerial orientations, make the procedure known to the users of the institution and evaluate the application of such measures annually.”

55. Section 3 of the Marine Products Processing Act (R.S.Q., chapter T-11.01) is amended by striking out the words “the Mental Patients Protection Act (chapter P-41)” in the sixth and seventh lines of the first paragraph.

56. Section 18 of the Act respecting administrative justice (1996, chapter 54) is amended by replacing the words “suffering from a mental illness” by the words “whose mental state presents a danger to themselves or to others”.

57. Sections 22 and 23 of the said Act are replaced by the following sections:

“22. In matters of protection of persons whose mental state presents a danger to themselves or to others, the social affairs division is charged with making determinations in respect of proceedings referred to in section 2 of Schedule I pertaining to the continued confinement of, or decisions made concerning, a person under confinement under the Act respecting the protection of persons whose mental state presents a danger to themselves or to others (1997, chapter 75).

“22.1. Such proceedings shall be heard and determined by a panel of three members composed of an advocate or a notary, a psychiatrist and a social worker.

“23. In matters of measures concerning an accused in respect of whom a verdict of not criminally responsible by reason of mental disorder has been rendered or who has been found unfit to stand trial, the social affairs division is charged with making determinations in respect of the cases referred to in section 2.1 of Schedule I.”

58. Section 103 of the said Act is amended by replacing the words “section 30 of the Mental Patients Protection Act (chapter P-41)” by the words “section 21 of the Act respecting the protection of persons whose mental state presents a danger to themselves or to others (1997, chapter 75)”.

59. Section 119 of the said Act is amended by replacing the words “section 30 of the Mental Patients Protection Act (chapter P-41)” in paragraph 4 by the words “section 21 of the Act respecting the protection of persons whose mental state presents a danger to themselves or to others (1997, chapter 75)”.

60. Section 2 to Schedule I to the said Act is replaced by the following sections:

“2. In matters of protection of persons whose mental state presents a danger to themselves or to others, the social affairs division hears and determines proceedings under section 21 of the Act respecting the protection of persons whose mental state presents a danger to themselves or to others (1997, chapter 75).

“2.1 In matters of measures concerning an accused in respect of whom a verdict of not criminally responsible by reason of mental disorder has been rendered or who has been found unfit to stand trial, the social affairs division hears and determines cases submitted to a Review Board under sections 672.38 and following of the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46).”

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

SCHEDULE

Information document on the rights of, and remedies available to,
a person under confinement
*(Act respecting the protection of persons whose mental state
presents a danger to themselves or to others, s. 16)*

(name of person under confinement)

You have been placed under confinement pursuant to a court decision based on two psychiatric examination reports.

You have legal rights:

1. You have the right to be transferred to another institution, if your attending physician is of the opinion that such a transfer presents no serious and immediate risks for you or for others, and if the organization and resources of that institution allow it to receive you.

2. You have the right to require that you be released from confinement without delay if a psychiatric examination report, confirming the necessity of continuing your confinement, has not been produced within 21 days after the court decision and at least once every three months thereafter.

In your case, the court decision was made on _____ and psychiatric examination reports were produced on the following dates:

(date of each psychiatric examination report produced)

3. You are required to submit to the psychiatric examinations referred to in paragraph 2. However, you may categorically refuse any other examination, care or treatment. If you do, your decision must be respected by the institution and by your physician, except if the examination or treatment was ordered by a judge, or in the case of emergency care or personal hygiene.

4. Even though you are under confinement, you may communicate confidentially, orally or in writing, with any person of your choice. However, your attending physician may decide, in your own interest, to prohibit you from communicating with certain persons or to impose restrictions on your communications. In such a

case, the prohibition or restriction can only be temporary, and the physician's decision must be given to you in writing and set out the reasons on which it is based.

Your physician may not, however, prevent you from communicating with your representative, the person qualified to give consent to your care, an advocate, the Public Curator or the Administrative Tribunal of Québec.

5. If you disagree with a decision made to continue your confinement, or with any other decision made in your respect, you may refer your case to the Administrative Tribunal of Québec.

(address) (telephone number) (fax number)

This is how you proceed:

(a) you yourself may write to the Tribunal or ask a family member or your tutor, curator or mandatary to write on your behalf;

(b) you must explain in your letter, to the best of your ability, why you disagree with the continuance of confinement or the decision made in your respect;

(c) your letter will constitute your application to the Tribunal, and must be sent to the above address within 60 days of the decision with which you disagree, but if you miss this deadline, the Tribunal may still decide to hear you if you give reasons to explain your delay;

(d) the Tribunal may order your release from confinement or overturn the decision made concerning you, but must meet with you before reaching its decision;

(e) you have the right to be represented by a lawyer at the meeting with the Tribunal, and to produce witnesses.

6. You must be released from confinement

(a) as soon as a certificate concluding that confinement is no longer justified has been issued by your physician;

(b) if a psychiatric examination report is not produced within the time limits set out in paragraph 2, upon the expiry of those time limits;

(*c*) on the expiry of the period of confinement fixed in the judgment;

(*d*) upon a decision to that effect by the Administrative Tribunal of Québec; or

(*e*) upon an order to that effect from a court of justice.

The institution where you are being kept under confinement must inform you immediately of your release from confinement.