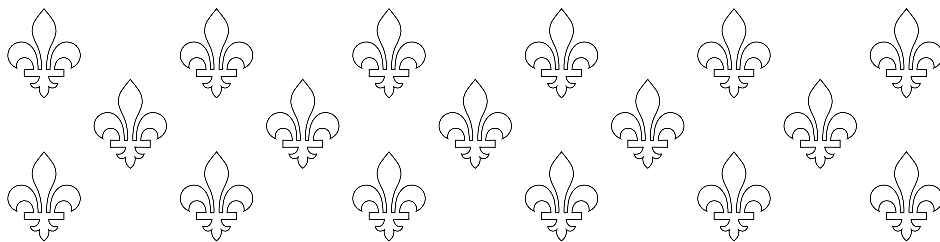

NATIONAL ASSEMBLY

SECOND SESSION THIRTY-SIXTH LEGISLATURE

Bill 89

(2002, chapter 24)

An Act respecting the Québec correctional system

Introduced 7 May 2002
Passage in principle 21 May 2002
Passage 11 June 2002
Assented to 13 June 2002

Québec Official Publisher
2002

EXPLANATORY NOTES

The purpose of this bill is to establish the general principles that are to guide the actions of correctional services of the Ministère de la Sécurité publique, the Commission québécoise des libérations conditionnelles and their community-based partners as well as all other stakeholders of the correctional system as they exercise their respective functions. Underlying these general principles is the objective of protecting society, ensuring compliance with the decisions of the courts and reintegrating offenders into the community.

The bill defines the role of correctional services officers, parole officers and correctional counsellors, granting them the status of peace officers in the exercise of their functions.

The various responsibilities the correctional services have in relation to the persons committed to their care and custody are determined in the bill. Accordingly, the correctional services will assess each such person and establish an electronic record using all means available to obtain the necessary information. In addition, the content of a person's record that must be communicated to the Commission québécoise des libérations conditionnelles is determined. As well, the bill provides for various reintegration support programs and services for offenders and for community supervision.

The bill provides that the Government may establish correctional facilities and community correctional centres and make agreements with Native communities to entrust them with the administration of community correctional centres. The responsibilities of inmates are determined, particularly as regards personnel members and other inmates, and provides for the creation of discipline committees to deal with the situation of undesirable conduct on the part of inmates.

The bill authorizes the director of a correctional facility to grant temporary absences for medical, humanitarian or reintegration purposes or to enable offenders to participate in the activities of a reintegration support fund or in spiritual activities. The persons to whom each type of temporary absence may be granted are specified along with the reasons that may be invoked and the terms and conditions that apply.

The Commission québécoise des libérations conditionnelles is authorized to grant temporary absences after one sixth of the sentence has been served in the case of sentences of six months or more. Several of the current provisions of the Act to promote the parole of inmates, in particular those pertaining to conditional release and to the composition and operation of the Commission québécoise des libérations conditionnelles is retained.

The correctional services and the Commission québécoise des libérations conditionnelles will be required to inform certain victims of an offence of the date of eligibility for temporary absence or conditional release of the person who committed the offence and of the date of such an absence or release.

Various community-based organizations meeting specific criteria may be recognized through an agreement by the Minister as partners of the correctional services. Such organizations will offer activities or services that supplement those of the correctional services and that are designed to meet the needs of offenders.

The current provisions of the Act respecting correctional services are maintained for the essential, in particular the provisions relating to the fund for the benefit of confined persons to be called Fonds de soutien à la réinsertion sociale.

Two new coordinating bodies will be created, a committee under the name Comité de concertation des Services correctionnels et de la Commission québécoise des libérations conditionnelles, and a council under the name Conseil des pratiques correctionnelles du Québec.

Lastly, the bill defines the responsibilities of the Minister of Public Security as regards Québec's correctional system.

LEGISLATION REPLACED BY THIS BILL :

– Act to promote the parole of inmates (R.S.Q., chapter L-1.1) ;

– Act respecting correctional services (R.S.Q., chapter S-4.01).

LEGISLATION AMENDED BY THIS BILL :

– Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001) ;

– Food Products Act (R.S.Q., chapter P-29) ;

– Youth Protection Act (R.S.Q., chapter P-34.1);

– Act respecting the determination of the causes and circumstances of death (R.S.Q., chapter R-0.2);

– Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10);

– Tobacco Act (R.S.Q., chapter T-0.01);

– Marine Products Processing Act (R.S.Q., chapter T-11.01).

Bill 89

AN ACT RESPECTING THE QUÉBEC CORRECTIONAL SYSTEM

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

GENERAL PRINCIPLES

1. The correctional services of the Ministère de la Sécurité publique, the Commission québécoise des libérations conditionnelles and the community-based organizations which are their partners, as well as all society's stakeholders having an interest in the correctional system shall facilitate the reintegration of offenders into the community. In keeping with the fundamental rights of the offenders, the correctional services shall contribute to the maintenance of a safe society by helping offenders become law-abiding citizens and by providing reasonable and humane measures of security and control in their regard, while recognizing their potential for rehabilitation and their willingness to engage in a reintegration process.

2. The protection of society, through individualized freedom-restricting measures, and compliance with court decisions are the paramount considerations in the pursuit of the reintegration of offenders into the community.

CHAPTER II

CORRECTIONAL SERVICES

DIVISION I

MANDATE

3. In collaboration with the institutions and bodies sharing the same mission, the correctional services shall endeavour to enlighten the courts and shall be responsible for the care, in the community or in a correctional facility, of the persons committed to their custody and facilitate the reintegration of offenders into the community.

More specifically, the correctional services are responsible for

(1) the provision of pre-sentencing reports and any other information requested by the courts;

(2) the assessment of the persons committed to their custody;

(3) the supervision in the community and the care of the persons committed to their custody, until the end of their sentences;

(4) the development and implementation of programs and services that contribute to the reintegration of offenders, and the facilitation of access to specialized programs and services offered by community-based resources; and

(5) the carrying out of research in the corrections field, in conjunction with the other stakeholders.

DIVISION II

PERSONNEL

§1. — *Correctional officers*

4. Correctional officers shall be responsible for the supervision of offenders in the community and for the custody of inmates, they shall take part in the assessment of offenders and facilitate their reintegration into the community.

Correctional officers shall encourage the participation of inmates in activities designed to assist them in acquiring socially acceptable values and behaviour. Relations between correctional officers and inmates shall be established with a view to providing assistance and support to such persons while observing their behaviour.

5. Correctional officers shall have the status of peace officers

(1) in the correctional facility and on the lands occupied by the facility, with respect to any person in the facility or on the lands;

(2) with respect to any person in their custody outside the facility; and

(3) with respect to offenders in whose respect a warrant has been issued under section 68 or 161 or in whose respect there is reasonable cause to believe that a warrant under either of those sections will soon be issued.

However, in the latter case, the person arrested must be released if the warrant is not in fact issued within twelve hours.

6. A police officer may arrest a person in whose respect a warrant has been issued under section 68 or 161.

The police officer may also arrest a person in whose respect there is reasonable cause to believe that a warrant under either of those sections will soon be issued.

However, in the latter case, the person arrested must be released if the warrant is not in fact issued within twelve hours.

§2. — *Probation officers and correctional counsellors*

7. At the request of the courts, probation officers shall prepare pre-sentencing reports on convicted offenders so as to assess the possibility of their reintegration into the community.

Probation officers shall perform various assessment and intervention activities in relation to offenders, support them through their reintegration process and, where necessary, refer them to the relevant community-based resources.

8. Correctional counsellors shall, in particular, develop and implement reintegration programs and support services, encourage offenders to develop an awareness of their behaviour and initiate a process focusing on responsibilization. Correctional counsellors shall also act as resource persons with respect to the delinquency problems of offenders.

9. Probation officers and correctional counsellors have the status of peace officers in the exercise of their functions.

§3. — *Destitution*

10. Any correctional officer, probation officer, correctional counsellor or correctional facility manager who is convicted, in any place, of an act or omission described in the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46) as an offence or one of the offences to which section 183 of that Code applies, created by one of the Acts enumerated therein, triable only on indictment shall, once the judgment has become *res judicata*, be automatically dismissed.

A disciplinary sanction of dismissal must, once the judgment concerned has become *res judicata*, be imposed on any correctional officer, probation officer, correctional counsellor or correctional facility manager who is convicted, in any place, of such an act or omission punishable on summary conviction or by indictment, unless he or she shows that specific circumstances justify another sanction.

11. Any person referred to in section 10 who is convicted of an act or omission referred to in that section must inform his or her director or competent authority of the conviction.

DIVISION III

ASSESSMENT, RECORD AND SUPPORT OF PERSONS COMMITTED TO THE CUSTODY OF THE CORRECTIONAL SERVICES

§1. — *Assessment*

12. The correctional services shall, upon being entrusted with the custody and care of a person, make an assessment of the person in a manner compatible with the length of the sentence, the person's status and the nature of the offence.

The correctional services must inform the person of the provisions respecting temporary absence and conditional release.

13. The purpose of the assessment is to determine a person's risk of reoffending and potential for reintegration, determined on the basis in particular of the person's needs as regards his or her delinquency problems, and the assistance and support resources required.

14. The assessment of a person shall serve in particular in establishing the terms and conditions of the person's custody and care, and of his or her reintegration plan and the making of decisions concerning temporary absence or conditional release.

15. The correctional services may retain the services of psychologists, psychiatrists, social workers, criminologists, sexologists and other professionals if necessary in order to complete the assessment of a person.

§2. — *Record and information*

16. A single, continuous electronic record shall be established by the correctional services on each person committed to their custody.

17. Appropriate and specific indications must be entered in the record of persons having a history of behaviour targeted by government policies, such as policies regarding domestic violence or sexual assault, or of behaviour related to pedophilia, organized crime or serious violence against persons, for the purpose of enabling informed sentence management and documenting the rehabilitation process of the persons concerned.

18. The correctional services shall take all reasonable steps as soon as is possible to obtain such information concerning the persons committed to their custody as is necessary for the provision of custody and care, sentence management or the making of decisions concerning temporary absence or conditional release.

The bodies or persons holding the information are required to disclose the information to the correctional services on request.

19. The record maintained by the correctional services, which must in all cases be communicated to the Commission québécoise des libérations conditionnelles to enable it to render informed decisions concerning temporary absence and conditional release, shall include

(1) warrants of committal relating to the current sentence;

(2) court orders under execution or which will take effect at a later date;

(3) judicial records;

(4) pre-sentencing reports;

(5) the information and documents contained in the record maintained by the court, the victim statement, the summary of events and the police statement;

(6) the offender's assessment and correctional intervention plan;

(7) the recommendation of the facility director or the person designated by the director concerning temporary absence or conditional release;

(8) the reports relating to the current sentence describing the offender's rehabilitation process and conduct while in custody and, where applicable, during a temporary absence;

(9) the reports filed prior to the current sentence describing the offender's behaviour while in custody or during the application of a community measure, at the provincial or federal level;

(10) any verification of the reintegration plan and any confirmation of admission into a community-based resource or a program;

(11) any psychological, psychiatric or sexological report prepared in connection with the offender's assessment made at any stage of the judicial or correctional process and related to the current or a prior sentence.

20. The Minister may, in accordance with the applicable legislative provisions, enter into an agreement with a government in or outside Canada, a department or body of that government, an international organization or a body of that organization providing for the collection or communication of necessary information concerning persons committed to the custody of the correctional services.

§3. — *Reintegration programs and support services*

21. The Minister shall develop and offer programs and services to encourage offenders to develop an awareness of the consequences of their behaviour and initiate a personal process focusing on developing their sense of responsibility.

The programs and services offered shall make special allowance for the specific needs of women and Native persons.

22. The Minister shall see to it that the offenders' access to specialized programs and services offered by community-based resources to foster their reintegration into the community and support their rehabilitation is facilitated. Such programs and services are designed to initiate the process of solving the problems associated with the delinquency of the offenders, in particular problems of domestic violence, sexual deviance, pedophilia, alcoholism and substance abuse.

23. The Minister may enter into an agreement with a government department or body for the development and implementation of services adapted to the needs of offenders, in particular as regards treatment, academic education and employment.

24. An accused person may participate, on a voluntary basis, in the programs and services offered in the facilities where he or she is detained.

DIVISION IV
COMMUNITY SUPERVISION

25. Community supervision is exercised in respect of offenders placed under a community measure such as a probation order or a suspended sentence or persons who have been granted a temporary absence or conditional release.

Community supervision seeks to ensure the protection of society and facilitate the reintegration of offenders into the community, and is effected through both control and reintegration interventions.

26. The purpose of control interventions is to ensure that the conditions imposed on the person are complied with.

Reintegration interventions shall be determined on the basis of the needs of the person and include assistance and support measures. Such interventions shall be designed to support the rehabilitation process and gain better knowledge of the person, consolidate a relationship of trust, solicit assistance from the person's family and social network and offer adapted services.

27. The probation officers, correctional officers and, in the case of a suspended sentence, supervision officers designated by the Minister shall be responsible for community supervision in accordance with the applicable legislative provisions and for the supervised persons' need for support and assistance.

28. Stakeholders from community-based organizations that are partners of the correctional services shall participate in community supervision to the extent and on the conditions determined by the Minister.

DIVISION V

CORRECTIONAL FACILITIES AND COMMUNITY CORRECTIONAL CENTRES

29. The Government may establish correctional facilities and community correctional centres.

The Government may also establish, on the conditions it determines, that any immovable or part of an immovable it specifies may be used as a correctional facility and determine the provisions of this Act that apply to it.

30. A correctional facility established under the first paragraph of section 29 shall be managed by a public servant called "facility director".

The facility director is responsible for the custody of the persons admitted to the facility until their final release or their transfer to another facility.

31. The Government may, in accordance with the applicable legislative provisions, enter into an agreement with a Native community represented by its band council or the Northern Village council or with a group of communities so represented or any other Native group entrusting the Native community with all or part of the administration of a community correctional centre or with the community supervision of Native offenders.

32. An agreement under section 31 shall specify

(1) where the agreement concerns the administration of a community correctional centre, its location and the provisions of this Act that apply to it, with the necessary modifications;

(2) the nature and extent of the activities or services provided by the Minister and by the Native community or group of communities;

(3) the number and, as appropriate, the categories of persons to be assigned to such activities or services;

(4) the respective roles and responsibilities of the Minister and the Native community or group of communities;

(5) the financial compensation paid to the Native community or group of communities by the Minister;

(6) the nature of the information communicated by one party that is necessary to the exercise of the functions of the other party;

(7) the provisions of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1) that are to apply to the information so communicated, and the measures to be taken by each party to ensure that the information is used only for the

purposes of its mandate and is not retained when the reason for which it was obtained no longer exists;

(8) the periodic evaluation procedure to be used by the Minister;

(9) the dispute resolution mechanism for the settlement of issues concerning the interpretation or implementation of the agreement;

(10) reporting and accountability mechanisms to be used by the Native community or group of communities;

(11) the obligation for the Native community or group of communities to provide reports or other information required by the Minister concerning the rehabilitation of the persons committed to its custody;

(12) the obligation for the Native community or group of communities to cooperate in any investigation that may be requested by the Minister into an incident involving a person committed to its custody; and

(13) the term of the agreement, which shall not exceed five years.

The persons in the employ of the Native community or the group of communities who are assigned to the implementation of the agreement are required to take the oath provided for in Schedule I.

An agreement between the Government and a Native community or group of communities may be terminated by either party on six months' notice. In the absence of such notice, the agreement shall be renewed automatically for the same term.

33. A person sentenced to more than one term of imprisonment or sentenced to imprisonment while in custody is deemed to be serving only one sentence beginning on the first day of the first of the sentences to be served and ending on the expiration of the last of the sentences to be served.

34. A facility director may order that an inmate be transferred to another correctional facility.

35. The Minister may, in accordance with the applicable legislative provisions, enter into an agreement with another government in Canada for the transfer of a person confined in a prison as defined by the Prisons and Reformatories Act (Revised Statutes of Canada, 1985, chapter P-20) or in a penitentiary as defined in the Corrections and Conditional Release Act (Statutes of Canada, 1992, chapter 20) to a correctional facility or for the transfer of a person confined in a correctional facility to a prison or penitentiary.

36. Any person who is in a place other than a correctional facility during a transfer to another correctional facility or a temporary absence or while otherwise under the responsibility of the director of a correctional facility, is

deemed for the purposes of this Act and the regulations and directives to continue to be in custody.

DIVISION VI

RESPONSIBILITIES OF INMATES

37. An inmate must be respectful of the personnel and other inmates and of their property and the property of the correctional facility ; an inmate must, in addition, comply with the other responsibilities determined by regulation.

38. An offender whose conduct is respectful towards the personnel and the other inmates may earn remission time.

Remission time may be earned provided the person complies with the regulations and directives of the correctional facility, observes the conditions of a temporary absence and participates in the programs and activities included in his or her plan for reintegration into the community.

Remission is calculated on the basis of one day of remission for two days of imprisonment during which the person complies with the conditions provided for in this section, up to one third of the sentence.

39. Where an offender does not comply with the conditions set out in section 38, a discipline committee established in the manner provided for in section 40 may refuse to grant or grant only part of the remission.

In addition, the committee may cancel any remission standing to a person's credit. However, where more than fifteen days of remission are to be cancelled, the committee must obtain the prior approval of the facility director.

DIVISION VII

DISCIPLINE COMMITTEE

40. A discipline committee shall be established in each correctional facility.

The facility director shall designate, from among the correctional officers, probation officers, correctional counsellors and correctional facility managers, two persons who shall act as members of the discipline committee.

41. A discipline committee shall examine the situation of an inmate who has failed to comply with his or her responsibilities and shall, if appropriate, determine the sanction to be imposed.

An inmate may apply to the facility director for a review of a decision of the discipline committee. However, a decision of the discipline committee cancelling more than fifteen days of remission standing to a person's credit may be reviewed only by a person designated by the Minister.

DIVISION VIII

TEMPORARY ABSENCES

§1. — *Temporary absence for medical purposes*

42. The facility director may, at all times, authorize the temporary absence of an inmate for medical purposes, in particular where

(1) the inmate is terminally ill ;

(2) the inmate's state of health requires immediate hospitalization ;

(3) the inmate must undergo an evaluation or medical examinations in a specialized environment ; or

(4) the inmate requires care or treatment that cannot be provided in the correctional facility.

43. The facility director shall determine the conditions that are to apply to the person and the duration of a temporary absence.

44. Where the life or health of an inmate is in danger and urgent medical treatment is required, the facility director may authorize the temporary absence without other formality provided the inmate is escorted by a correctional officer if the facility director considers it advisable.

§2. — *Temporary absence to attend activities of a reintegration support fund or participate in spiritual activities*

45. The facility director may, at all times, authorize the temporary absence of an offender so that he or she may participate in an activity of the fund established under section 74, or in a spiritual activity.

The object of a spiritual activity is to help offenders find a meaning to their lives, improve their physical, psychological and social well-being and develop their potential as human beings, at the moral and religious levels.

46. A person whose temporary absence has been authorized to participate in a fund activity or in a spiritual activity must return to the correctional facility each night.

47. The facility director shall determine the conditions that apply to the person.

48. The criteria for granting a request for the authorization of a temporary absence to participate in the activities of the reintegration fund or in spiritual activities are

(1) the protection of society in relation to the offender's risk of reoffending and potential for reintegration determined on the basis, in particular, of his or her needs as regards his or her delinquency problems;

(2) the nature, seriousness and consequences of the offence committed by the offender; and

(3) the offender's behaviour and his or her capacity to comply with the conditions imposed.

§3. — *Temporary absence for humanitarian purposes*

49. The facility director may, at all times, authorize the temporary absence of an offender for humanitarian purposes where requested in writing by the offender, for one of the following reasons:

(1) the birth, baptism or marriage of his or her child;

(2) the serious illness, death or funeral of his or her spouse, or his or her child, father, mother, brother or sister or a person who stood in lieu of his or her father or mother;

(3) the offender's obligation to care for a sick spouse, or his or her child, father, mother, brother or sister or a person who stood in lieu of his or her father or mother, where no other relative can do so;

(4) the necessity to provide support or assistance to his or her spouse, or his or her child, father, mother or a person who stood in lieu of his or her father or mother where, failing such support or assistance, serious prejudice would be caused to any of those persons;

(5) a personal obligation within a judicial or administrative process where the very nature of the obligation precludes a mandatary duly designated for that purpose from acting, or where failure to perform or undertake the acts or proceedings could cause serious prejudice to a third person.

50. The facility director shall determine the conditions that apply to the person and, depending on the reason for the temporary absence, its duration, which shall not exceed twenty days.

51. The facility director may authorize the temporary absence of an accused person for humanitarian purposes on the death or funeral of the accused person's spouse, or his or her child, brother or sister, or father, mother or a person who stood in lieu of the accused person's father or mother, or to visit any of those persons who is seriously ill.

Where a temporary absence is authorized for such purposes, the person must be under the constant custody and supervision of a correctional officer.

52. The criteria for granting a request for the authorization of a temporary absence for humanitarian purposes are

(1) the protection of society in relation to the inmate's risk of reoffending determined on the basis, in particular, of his or her needs as regards his or her delinquency problems;

(2) the nature, seriousness and consequences of the offence committed by the offender; and

(3) the inmate's behaviour and his or her capacity to comply with the conditions imposed.

§4. — *Temporary absence for reintegration purposes*

53. Temporary absence for reintegration purposes constitutes a stage in the offender's rehabilitation process, forms part of his or her preparation for release and takes place within the framework of a plan for his or her reintegration into the community.

A person is eligible for temporary absence after serving one sixth of any sentence of less than six months imposed by the court.

54. If a person applies therefor in writing, the facility director may authorize a temporary absence for reintegration purposes, in particular to allow the person

(1) to hold remunerated employment;

(2) to actively seek remunerated employment;

(3) to perform volunteer work in a community-based resource;

(4) to undertake or pursue secondary, college or university studies;

(5) to undergo an academic assessment for the purpose of returning to school;

(6) to undergo an eligibility assessment for future accommodation in a community-based residential facility or stay in such a facility;

(7) to participate, in the community, in an assistance or support program or therapy in relation to his or her needs; or

(8) to maintain or reestablish contacts with his or her family or social network.

55. The facility director shall determine the conditions that apply to the person and the duration of the temporary absence, which may not exceed sixty days.

The facility director or the director responsible for community supervision may, after examining the person's record, renew a temporary absence if he or she has complied with the attached conditions and has behaved satisfactorily, and if no new fact prevents a renewal or warrants a refusal.

56. The criteria for granting a request for the authorization of a temporary absence for reintegration purposes include

(1) the protection of society in relation to the offender's risk of reoffending and potential for reintegration determined on the basis, in particular, of his or her needs as regards his or her delinquency problems and the availability of resources ;

(2) the nature, seriousness and consequences of the offence committed by the offender ;

(3) the degree to which the offender understands and assumes responsibility for his or her criminal behaviour and the consequences of the offence for the victim and for society ;

(4) the offender's judicial record and corrections history ;

(5) the offender's personality and behaviour, his or her rehabilitation progress since the sentence was imposed, his or her willingness to become involved in a process of change and his or her capacity to fulfil his or her obligations ;

(6) the offender's behaviour during incarceration under an earlier sentence or during the earlier application of a community measure, at the provincial or federal level ;

(7) the offender's previous employment and work skills ;

(8) the family and social resources available ; and

(9) the appropriateness of the reintegration plan having regard to the offender's risk of reoffending and his or her capacity to complete the plan with the appropriate support.

§5. — *Temporary absence examining board*

57. A temporary absence examining board shall be established in each correctional facility.

58. Each board shall consist of three persons designated by the facility director from among the correctional officers, probation officers, correctional counsellors and correctional facility managers.

However, in the case of a request for a temporary absence by a person serving a sentence of thirty days or less or a sentence served intermittently and

a request for a temporary absence to participate in fund activities or spiritual activities, the board shall consist of two persons.

59. Each temporary absence except an absence for medical purposes, in preparation for conditional release or for a family visit must be preceded by a recommendation from a temporary absence examining board.

60. An inmate who so requests is entitled to submit observations and, where expedient, to produce documents to complete his or her record. An inmate is also entitled to be represented or assisted before the board by any person of his or her choice other than an inmate from another correctional facility.

61. As soon as possible after the receipt of a request for a temporary absence, the board shall examine the request and transmit its recommendation to the facility director.

The board shall give reasons for its recommendation, suggest conditions to be imposed on the inmate, report the observations presented by the inmate and mention any representations made by the victim.

62. The board's recommendation is not binding on the facility director.

The facility director may request additional information from the board if he or she considers it necessary for the purposes of a decision.

§6. — *Decision*

63. The decision of the facility director must be rendered in writing, with reasons, as soon as possible following receipt of the board's recommendation, if any, and the inmate must be informed thereof as quickly as possible.

64. The facility director must inform the police forces of the temporary absence granted to an offender and of the attached conditions.

65. A person to whom a temporary absence is granted must be advised that the police forces and, if applicable, the victim have been informed of the temporary absence and of the conditions attached thereto.

66. Temporary absence shall not be granted, except for medical purposes, to a young person within the meaning of the Young Offenders Act (Revised Statutes of Canada, 1985, chapter Y-1) who has been committed to custody under that Act or to a person serving a sentence for contempt of court in a civil or penal matter where the person is required to return before the court pursuant to a condition of his or her sentence.

67. The decision to grant temporary absence shall not take effect where a new fact is discovered which, if it had been known in time, may have warranted a different decision or where warranted by the occurrence of an event.

The facility director shall reexamine the offender's record within the time prescribed by regulation and, after giving the offender an opportunity to submit observations, the facility director may

(1) maintain the decision to grant temporary absence and, if necessary, modify the conditions thereof ; or

(2) cancel the decision to grant temporary absence.

68. The facility director or the director responsible for community supervision may suspend an offender's temporary absence, issue a warrant of apprehension and order the offender's recommitment to custody,

(1) where there are reasonable grounds to believe that the offender has breached a condition attached to the temporary absence or that action must be taken to prevent such a breach ;

(2) for any valid reason invoked by the offender ; or

(3) where a new fact is discovered which, if it had been known at the time temporary absence was granted, may have warranted a different decision or where an event not covered by subparagraphs 1 and 2 occurs that warrants a suspension.

The offender must, as soon as is possible, be given written reasons for the suspension.

69. Following a decision to suspend an offender's temporary absence, the facility director or the director responsible for community supervision must re-examine the facts and may cancel the suspension or revoke or terminate the temporary absence as soon as possible.

Before the decision is rendered, the person concerned is entitled, on request, to submit observations and, where expedient, to produce documents to complete his or her record. The person is also entitled, on request, to be assisted or represented before the board by any person of his or her choice other than an inmate from another correctional facility.

70. An offender may not reapply for a temporary absence for reintegration purposes unless thirty days have elapsed since the date of a refusal or revocation or, even if the 30-day period has not elapsed, unless a favourable recommendation is made in that respect by the person in charge of the case.

§7. — *Review*

71. Within seven days of notification of a decision of the facility director or the director responsible for community supervision refusing, revoking or terminating an absence for reintegration purposes, an offender may apply to the person designated by the Minister for a review of the decision.

The application must be made in writing and establish that

(1) the applicable legislative prescriptions have not been complied with ; or

(2) the decision was based on incomplete or erroneous information.

72. After giving the person concerned an opportunity to submit observations, the person designated by the Minister shall decide on the record and may confirm or cancel the initial decision and, in the latter case, render the decision that should have been rendered.

73. The decision must be rendered within seven days of the application and be transmitted to the offender.

DIVISION IX

PROGRAM OF ACTIVITIES FOR OFFENDERS

§1. — *Reintegration support fund*

74. A reintegration support fund shall be established in each correctional facility.

The name of a reintegration support fund must include the expression “Fonds de soutien à la réinsertion sociale” and the name of the correctional facility.

75. The functions of a fund shall be to establish each year, on the date fixed by the Fonds central de soutien à la réinsertion sociale, established under section 102, and within the framework determined by regulation, a program of activities for offenders, and see to its implementation. The program and any modification to the program must be approved by the Fonds central.

A further function of a fund is to assist offenders financially, in accordance with the conditions prescribed by regulation.

For those purposes, a fund shall be made up of

(1) the sums deducted from the remuneration owed to offenders, according to the percentage fixed by regulation ;

(2) the gifts made for the benefit of offenders, subject to the conditions attached thereto ;

(3) any revenues generated within the framework of a program of activities ;

(4) other sums of money from sources that may be determined by regulation ; and

(5) the interest earned on the sums of money making up the fund.

76. A program of activities for offenders must propose academic, vocational and personal development activities, work activities, whether remunerated or not, and sports, socio-cultural and recreational activities.

An accused person may participate, on a voluntary basis, in the program of activities proposed in the facility where he or she is detained. The provisions of this division apply to such participation, with the necessary adaptations.

77. The Minister or the person designated by the Minister may, within the framework of a program of activities for offenders,

(1) entrust a fund with the organization and management of services ; and

(2) take any reasonable measures to place the necessary services, personnel, premises and facilities of the correctional facility at the disposal of the fund, on the conditions prescribed by regulation.

78. The facility director may authorize an offender to engage in activities offered within the scope of a program of activities for offenders.

In the cases determined by regulation, such authorization may not be granted without the advice of the person designated by regulation having been taken into account.

79. A fund is a legal person.

80. A fund shall have its head office at the correctional facility.

81. A fund shall be administered by a board of directors composed of the director of the correctional facility, four persons appointed by the Minister and two offenders chosen by the facility director.

Two of the members shall be appointed by the Minister from among the public servants of the Ministère de la Sécurité publique and two members shall be chosen from among persons who are resident in the region of the correctional facility and show an interest in the reintegration of offenders ; one of these members must be a representative of the business community.

82. The term of office of a member of the board of directors other than the facility director shall not exceed two years and may be renewed.

The members shall remain in office despite the expiry of their terms until replaced or reappointed.

83. The members of the board of directors shall designate a chair, a vice-chair, a secretary and a treasurer from among their number. The vice-chair shall replace the chair when the chair is absent or unable to act.

84. A majority of the members of the board of directors, including the facility director or a public servant, constitutes a quorum.

In the event of a tie, the chair has a casting vote.

85. A decision signed by all the members of the board of directors has the same force as if it had been made at a regular board meeting.

86. The board of directors shall administer the affairs and exercise all the powers of the fund.

87. A fund may, in particular,

(1) enter into any contract to enable an offender to participate in activities inside or outside the correctional facility, subject to the rules prescribed by regulation ;

(2) contract loans to finance a program of activities, according to the rules prescribed by regulation ;

(3) authorize expenses to be paid out of the fund ; and

(4) hire any person necessary to the pursuit of its functions.

88. A fund may make a gift or grant a loan, with or without interest, to another fund established under section 74.

89. The Government may, on the conditions it determines, guarantee, out of the consolidated revenue fund or otherwise, the payment in principal and interest of any loan or bear the cost of any other obligation contracted by a fund.

90. The revenues from a contract entered into under paragraph 1 of section 87 shall be paid into the fund established in the correctional facility.

91. A fund shall deduct from the remuneration owed to an inmate in the correctional facility an amount, calculated according to the percentage fixed by regulation, that shall be paid into the fund as well as any amount that must be deducted pursuant to an Act in force in Québec or pursuant to a court decision.

The balance of the remuneration shall be paid to the facility director, who shall give the offender the allowance determined by regulation out of the balance.

92. Subject to any contrary agreement in writing authorized by the Minister, any balance remaining in the remuneration shall be deposited by the facility director with a financial institution and credited to the savings account held in trust for that purpose by the director. The amount and interest owed to an offender shall be paid to him or her by the facility director upon release.

93. The facility director shall give the offender an account of the remuneration received on his or her behalf and of the deductions and deposits made under section 91 or 92 upon the offender's release and, at his or her request, once a month or less.

94. Each fund must pay a contribution to the central fund at the time fixed by the central fund.

The contribution shall be determined by the central fund within the limits prescribed by regulation, and may differ from one fund to the other depending on the financial capacity and program of activities of each fund.

95. The fiscal year of a fund ends on 31 December.

96. No deed, document or writing binds a fund unless it is signed by the chair or any other duly authorized officer.

97. Not later than 30 June each year, a fund shall submit its financial statements and a report on its activities for the preceding fiscal year to the Minister. The financial statements and the activities report must contain all the information required by the Minister.

A copy of the financial statements, activities report and auditor's report must also be transmitted to the central fund.

98. A fund shall provide to the Minister any additional information the Minister requires on its activities.

99. The books and accounts of a fund shall be audited each year.

The Minister may, at any time, order that the books and accounts of a fund be also audited by an auditor designated by the Minister.

100. If the correctional facility is closed, the fund shall be liquidated in accordance with the rules and the terms and conditions prescribed by regulation.

101. The Minister must take every reasonable measure to facilitate the carrying out of the programs of activities of the funds established in correctional facilities.

§2. — *Reintegration support central fund*

102. A central fund called the "Fonds central de soutien à la réinsertion sociale" is hereby established.

103. The functions of the central fund are

(1) to support any fund established in a correctional facility that is in need of financial assistance and, for that purpose, make a gift or grant a loan to the fund with or without interest ;

(2) to develop policies concerning programs of activities and advise the Government on the regulations to be made ;

(3) to advise any fund established in a correctional facility concerning the organization and development of programs of activities ;

(4) to approve the programs of activities of the funds established in correctional facilities.

104. The central fund shall, for the purposes of paragraph 1 of section 103, manage, in accordance with the regulations, a fund made up of

(1) the contributions paid pursuant to section 94 by the funds established in correctional facilities ;

(2) other sums of money from sources that may be determined by regulation ;

(3) the interest earned on the sums of money making up the fund.

105. The central fund is a legal person.

106. The central fund shall have its head office at the Ministère de la Sécurité publique.

107. The central fund shall be administered by a board of directors composed of seven members appointed by the Minister. Three members shall be chosen from among the directors of the correctional facilities, two from among the public servants of the correctional services, and two from among other persons who show an interest in the reintegration of offenders, including a representative of the business community.

The members of the board of directors shall be appointed for a renewable term of two years.

The members shall remain in office despite the expiry of their terms until replaced or reappointed.

108. The Minister may give the central fund guidelines regarding the development of programs of activities.

109. Sections 83 to 86 and 95 to 99 apply to the central fund, with the necessary modifications.

CHAPTER III

COMMUNITY-BASED ORGANIZATIONS

110. The Minister may recognize a community-based organization as a partner of the correctional services if the organization

(1) offers activities or services designed to meet the needs of offenders and to supplement the activities or services offered by the correctional services ;

(2) is a non-profit corrections organization, whose board of directors is composed in the majority of persons from the community served by the organization ; and

(3) has the human, material and organizational resources appropriate to its activities and services having regard to the standards established by the Minister.

The Minister shall establish the standards after obtaining the advice of the parole board, the correctional services and the associations representing the non-profit community-based corrections organizations.

111. The activities or services offered by a community-based organization to supplement the activities or services offered by the correctional services and meet the needs of offenders are the following :

(1) participation in the community supervision of offenders ;

(2) development and implementation of psychosocial support and basic social skills development programs ;

(3) residential services with support and assistance activities ;

(4) development of substitute social networks ;

(5) any activity or service considered appropriate having regard to the needs of offenders or the policies of the correctional services.

112. A community-based organization is recognized by the Minister as a partner of the correctional services by means of a partnership agreement.

113. The partnership agreement shall determine, in particular,

(1) the nature and scope of the activities or services provided by the community-based organization ;

(2) the contact and communication mechanisms between the community-based organization and the Minister ;

(3) the general criteria for the assessment of the activities or services offered by the community-based organization, in particular as regards the human, material, financial and organizational resources allocated to the services;

(4) the Minister's responsibilities as regards the planning of the tasks entrusted to the community-based organization;

(5) the financial compensation paid by the Minister to the community-based organization;

(6) the provisions of the Act respecting Access to documents held by public bodies and the Protection of personal information that apply to the information that will be disclosed to the organization and the measures the organization must take to ensure that the information is used only for the purposes of its mandate and is not retained when the reason for which it was obtained no longer exists;

(7) a dispute resolution mechanism for the settlement of disputes concerning the interpretation or implementation of the agreement;

(8) the term of the agreement, which shall not exceed five years;

(9) the organization's reporting and accountability mechanisms;

(10) the organization's obligation to provide reports or other information required by the Minister concerning the progress accomplished by an offender to whom it is providing activities or services;

(11) the organization's obligation to cooperate in any investigation that may be requested by the Minister into an incident involving an offender to whom it is providing activities or services;

(12) the periodic evaluation to be made by the Minister; and

(13) the sanctions that may be imposed on persons in the employ of the community-based organization in case of the violation of their oath of secrecy.

An agreement between the Minister and a community-based organization may be terminated by either party on six months' notice. In the absence of such notice, the agreement shall be renewed automatically for the same term.

114. A community-based organization recognized as a partner of the correctional services shall have access to any information at the disposal of the correctional services concerning offenders to whom it is providing activities or services, and that is necessary to the carrying out of its work.

115. Every person in the employ of the community-based organization who is assigned to the implementation of the agreement is required to take the oath set out in Schedule I.

CHAPTER IV

COMMISSION QUÉBÉCOISE DES LIBÉRATIONS CONDITIONNELLES

DIVISION I

ESTABLISHMENT

116. A parole board is hereby established under the name “Commission québécoise des libérations conditionnelles”.

117. The parole board shall have its head office at the place determined by the Government. Notice of the location or of any change of location of the head office shall be published in the *Gazette officielle du Québec*.

118. The parole board shall hold its sittings at the places it determines.

The parole board may hold sittings in several places simultaneously.

DIVISION II

MANDATE

119. The parole board shall make the decisions concerning temporary absences in preparation for conditional release, temporary absences for family visit and the conditional release of inmates serving a sentence of six months or more in a correctional facility.

In particular, the parole board shall

(1) facilitate the reintegration of offenders into the community having regard to the decisions of the courts and the protection of society ;

(2) consider all necessary and available information that pertains to the offenders before making a decision ; and

(3) establish policies that are consistent with those established by the Minister, transmit the policies to the Minister and see that they are disseminated.

DIVISION III

COMPOSITION AND OPERATION

120. The parole board shall be composed of not more than twelve full-time members including a chair and vice-chair, of part-time members in a number determined by the Government and of at least one community member per region determined by regulation.

121. The members of the parole board shall be appointed by the Government.

122. The full-time members and part-time members shall be appointed for terms not exceeding five years and the community members for terms not exceeding three years.

123. The members of the parole board shall remain in office at the expiry of their terms until reappointed or replaced.

124. The members of the parole board and any person designated by the parole board may not be prosecuted by reason of official acts done in good faith in the exercise of their functions.

125. The Government shall fix the salary and the conditions of employment of the full-time members and part-time members and the fees and allowances of the community members of the parole board.

126. The secretary and the other members of the personnel of the parole board are appointed in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1).

127. The chair of the parole board shall administer and have the general direction of the parole board.

The functions of the chair shall include the responsibility of coordinating and assigning the work of the members of the parole board, defining the policies of the parole board and ensuring that a high standard of quality and coherence is maintained in the parole board's decisions.

128. The chair may delegate all or some of the chair's powers and duties to the vice-chair.

129. The vice-chair shall exercise the functions and powers of the chair when the chair is absent or unable to act, or if the office of chair is vacant.

130. Where a full-time or part-time member is absent or unable to act, the chair may designate a community member to replace that member. A person so designated is deemed to be a full-time or part-time member, depending on the member replaced, for the purposes of section 154.

131. The parole board may adopt internal management by-laws.

132. Originals and copies of documents emanating from the parole board are authentic if signed or certified true by the chair, the secretary or a member designated by the chair.

133. Except on a question of jurisdiction, no remedy under article 33 of the Code of Civil Procedure (R.S.Q., chapter C-25) or extraordinary recourse within the meaning of that Code may be exercised and no injunction may be granted against the parole board or against any of its members acting in their official capacity.

A judge of the Court of Appeal may, on a motion, annul by summary proceeding any proceeding brought or decision rendered contrary to the first paragraph.

134. Not later than 30 June each year, the parole board must submit an annual management report to the Minister.

The Minister shall table the report of the parole board in the National Assembly in accordance with section 26 of the Public Administration Act (R.S.Q., chapter A-6.01).

DIVISION IV

TEMPORARY ABSENCE

§1. — *Temporary absence in preparation for conditional release*

135. Temporary absence in preparation for conditional release shall constitute a stage in the offender's rehabilitation process, forms part of his or her preparation for conditional release and takes place within the framework of a plan for his or her reintegration into the community.

A person is eligible for temporary absence after serving one sixth of a sentence of six months or more imposed by the court and ceases to be eligible on becoming eligible for conditional release.

136. Where a person applies therefor in writing, the parole board may authorize a temporary absence in preparation for conditional release, in particular to allow the person

(1) to hold remunerated employment ;

(2) to actively seek remunerated employment ;

(3) to perform volunteer work in a community-based resource ;

(4) to undertake or pursue secondary, college or university studies ;

(5) to undergo an academic assessment for the purpose of returning to school ;

(6) to undergo an eligibility assessment for future accommodation in a community-based residential facility or stay in such a facility ;

(7) to participate, in the community, in an assistance or support program or therapy that is consistent with his or her needs; or

(8) to maintain or reestablish contacts with his or her family or social network.

137. The parole board shall determine the conditions that apply to the person and the duration of the temporary absence, which may not exceed sixty days.

138. A member of the parole board may, after examining the person's record, renew a temporary absence if he or she has complied with the attached conditions and has behaved satisfactorily, and if no new fact prevents a renewal or warrants a refusal.

139. A person may not reapply for a temporary absence in preparation for conditional release following a decision refusing, terminating or cancelling such an absence.

§2. — *Temporary absence for family visit*

140. An offender may, following a decision refusing, revoking or terminating his or her conditional release, apply to the parole board in writing for permission to be absent for the purpose of visiting his or her family, namely a spouse, child, father, mother, brother or sister or a person who stood in lieu of his or her father or mother.

141. A full-time or part-time member of the parole board shall examine the case on the record and consider the following criteria:

(1) the protection of society in relation to the person's risk of reoffending and his or her potential for reintegration determined on the basis, in particular, of his or her needs as regards his or her delinquency problems;

(2) the nature, seriousness and consequences of the offence committed by the person;

(3) the person's behaviour while in custody and, if applicable, during a prior temporary absence and his or her capacity to comply with the conditions imposed; and

(4) whether or not a family member has agreed to welcome the offender and whether or not the family visit may foster his or her reintegration.

The person is entitled to submit observations and, if applicable, file documents to complete his or her file.

142. The member of the parole board shall determine the conditions that are to apply to the person and the duration of temporary absence, which may not exceed 72 hours per month. The time required to travel from the place of detention to the person's destination is not included in the duration of the absence.

The member of the parole board may, in addition, determine the frequency of temporary absences for family visits or in the case of a refusal, the date on which the person may re-apply in accordance with section 140.

DIVISION V

CONDITIONAL RELEASE

§1. — *Eligibility*

143. An offender who is serving a sentence of six months or more in a correctional facility following a conviction under an Act in force in Québec is eligible for conditional release unless conditional release is waived in writing by the offender.

The parole board may, on the conditions it determines, grant conditional release to an offender to facilitate his or her reintegration into the community if there is no serious risk that he or she will not comply with the attached conditions or that serious prejudice to society will result therefrom.

144. The length of conditional release is the time remaining to be served by the offender at the time conditional release is granted, to which any remission time standing to the credit of the offender must be added.

145. An offender becomes eligible for conditional release

(1) after serving seven years of imprisonment, in the case of an offender sentenced to life imprisonment as a maximum sentence ;

(2) after serving one half of the sentence of imprisonment imposed by the court or ten years, whichever is shorter, in the case of a sentence of imprisonment of two years or more, where the circumstances set out in section 743.6 of the Criminal Code apply ; or

(3) after serving one third of the sentence of imprisonment imposed by the court or seven years, whichever is shorter, in other cases.

Any time spent in custody between the day of arrest and the day on which the sentence was imposed shall be included in calculating the period referred to in subparagraph 1.

146. An offender who receives an additional sentence becomes eligible for conditional release

(1) after serving both any remaining period of ineligibility under the initial sentence and one third of the additional sentence, commencing on the day on which the additional sentence is imposed, if it is to be served consecutively and is imposed under the Criminal Code or another federal statute; or

(2) after serving one third of a single sentence determined pursuant to section 33, in other cases.

The parole board must study the offender's record in relation to the new date of eligibility.

147. An offender who receives an additional sentence to be served consecutively to a portion of the sentence of imprisonment currently being served in accordance with section 33 is eligible for conditional release only on the latest of the following dates:

(1) the date on which the offender has served a third of the sentence being served at the time the additional sentence is imposed;

(2) the date on which the offender has served a third of the additional sentence, determined from the date the additional sentence is imposed;

(3) the date on which the offender has served a third of the sentence of imprisonment determined in accordance with section 33.

The parole board must, in such a case, examine the record of the person on the basis of the new date of eligibility.

148. The conditional release of a person on whom an additional sentence is imposed is suspended and may be resumed only

(1) after the offender has served one third of the additional sentence, commencing on the day on which the additional sentence is imposed, if it is to be served consecutively and is imposed under the Criminal Code or another federal statute; or

(2) after the offender has served one third of a single sentence determined pursuant to section 33, in other cases.

However, conditional release cannot resume if the parole board or a person designated in writing by the parole board has ordered a suspension pursuant to section 161.

149. Notwithstanding sections 145 to 148, conditional release may be granted to an offender

(1) who is terminally ill;

(2) whose physical or mental health is likely to suffer serious damage if he or she continues to be held in confinement;

(3) for whom continued confinement would constitute an excessive hardship that was not reasonably foreseeable at the time the offender was sentenced; or

(4) who is the subject of an order to be surrendered under the Extradition Act (Statutes of Canada, 1999, chapter 18) and to be detained until surrendered.

150. A young person within the meaning of the Young Offenders Act who has been committed to custody under that Act and a person convicted for civil or criminal contempt of court where the sentence includes a requirement that the offender return before the court are not eligible for temporary absence or conditional release.

The parole board is not required to examine the case of a person who, at the time fixed for an examination, is unlawfully at large or stands accused. If the person is unlawfully at large, however, the parole board shall forthwith examine the case after being informed of the offender's recommitment.

§2. — *Re-examination*

151. A person whose conditional release has been refused, terminated or revoked may, after the expiry of the time provided for an application for re-examination, submit another application for re-examination by the parole board.

152. Any application submitted within six months following a decision refusing, terminating or revoking a conditional release must establish that new and significant facts have occurred since the decision or that measures proposed by the parole board in a previous decision have been implemented.

The member of the parole board to whom the application is referred shall reject it if it does not meet the conditions set out in the first paragraph or shall refer it to the parole board for re-examination.

153. The parole board shall re-examine any application submitted more than six months after a decision refusing, terminating or revoking a conditional release is rendered.

DIVISION VI

PROCEDURE

154. The quorum of the parole board is two members, one of whom must be a full-time or part-time member. The decision must be unanimous.

In the case of disagreement, the matter shall be referred to two other members.

155. On examining the case of a person eligible for temporary absence in preparation for conditional release or eligible for conditional release, the parole board shall consider the following criteria:

(1) the protection of society in relation to the offender's risk of reoffending and of his or her potential for reintegration determined on the basis, in particular, of his or her needs as regards his or her delinquency problems and the availability of resources;

(2) the nature, seriousness and consequences of the offence committed by the offender;

(3) the degree to which the offender understands and assumes responsibility for his or her criminal behaviour and the consequences of the offence for the victim and for society;

(4) the offender's judicial record and corrections history;

(5) the offender's personality and behaviour, his or her rehabilitation progress since the sentence was imposed, his or her willingness to become involved in a process of change and his or her capacity to fulfil his or her obligations;

(6) the offender's behaviour during incarceration under an earlier sentence or during the earlier application of a community measure, at the provincial or federal level;

(7) the offender's previous employment and work skills;

(8) the family and social resources available; and

(9) the appropriateness of the reintegration plan having regard to the offender's risk of reoffending and his or her capacity to complete the plan with the appropriate support.

156. During the examination of his or her record, the offender is entitled to be present and submit observations and, where expedient, to produce documents to complete his or her record, unless that right is waived in writing by the offender.

The offender is also entitled to be represented or assisted by any person of his or her choice other than an inmate from another correctional facility.

157. The parole board shall, with diligence, render a reasoned decision in writing.

A copy of the decision must be given to the offender and to the correctional services as soon as possible.

158. The parole board must inform the police forces of the temporary absence or conditional release granted to an offender and of the conditions that apply.

159. A person to whom a temporary absence or conditional release is granted must be advised that the police forces and, if applicable, the victim have been informed of the temporary absence or conditional release and of the conditions attached thereto.

DIVISION VII

CANCELLATION, SUSPENSION, TERMINATION AND REVOCATION

160. The decision to grant temporary absence or conditional release shall not take effect where a new fact is discovered which, if it had been known in time, may have warranted a different decision or where warranted by the occurrence of an event.

The parole board or, in the case of a temporary absence for a family visit, a member of the parole board, shall reexamine the offender's record within the time prescribed by regulation and, after giving the offender an opportunity to submit observations, the board or member may

(1) maintain the decision to grant the temporary absence or conditional release and, if necessary, modify the conditions thereof ; or

(2) cancel the decision to grant the temporary absence or conditional relase.

161. A member of the parole board or a person designated by the parole board in writing may suspend an offender's temporary absence or conditional release, and, if appropriate, issue a warrant of apprehension and order the commitment of the offender,

(1) where he or she has reasonable cause to believe that the offender has breached a condition attached to a temporary absence or conditional release or that action must be taken to prevent such a breach ;

(2) for any valid reason invoked by the offender ; or

(3) where a new fact is discovered which, if it had been known at the time temporary absence or conditional release was granted, may have warranted a different decision or where an event not covered by subparagraphs 1 and 2 occurs that warrants a suspension.

The decision must be rendered in writing and include reasons.

162. The member of the parole board who ordered the suspension under section 161 or, after consulting the parole board, the person designated by the

parole board in writing may, within five days after the recommitment of the offender in the case of a temporary absence, and within ten days after the recommitment of the offender in the case of a conditional release, cancel the suspension or refer the case to the parole board.

The director must, as soon as possible, give a copy of the decision to the person recommitted.

163. Where an offender's case is referred to the parole board under section 162, the parole board must examine the case within ten days after the recommitment of the offender in the case of a suspension for a valid reason invoked by the offender or in the case of a suspension of a temporary absence. The parole board must examine the case within twenty-one days after the recommitment of the offender in the case of conditional release.

The parole board may

(1) revoke the offender's temporary absence or conditional release and order that the offender be committed to custody ;

(2) order the termination of the temporary absence or conditional release if the suspension was for a valid reason invoked by the offender and order that the offender be committed to custody ; or

(3) cancel the suspension and release the offender on the conditions it determines.

164. A person whose conditional release is revoked must complete the portion of his or her term of imprisonment that remained to be served at the time conditional release was granted, less

(1) any time spent under conditional release ;

(2) any time spent in custody by reason of the suspension of a conditional release ; and

(3) any remission time for the period spent in custody by reason of the suspension.

The parole board may recredit an offender whose conditional release is revoked with all or part of the remission time standing to his or her credit at the time conditional release was granted.

165. A person whose conditional release has been terminated must complete the portion of the term of imprisonment that remained to be served at the time conditional release was granted, less

(1) any remission time standing to his or her credit at the time conditional release was granted ;

(2) any time spent under conditional release ;

(3) any time spent in custody by reason of the suspension of a conditional release ; and

(4) any remission time for the period spent in custody by reason of the suspension.

166. Where the suspension of conditional release is cancelled, the person is deemed to have continued serving his or her sentence during the period beginning on the date of the suspension and ending on the date on which the suspension is cancelled.

DIVISION VIII

MODIFICATION OF CONDITIONS

167. A member of the parole board or a person designated in writing by the parole board may mitigate or suppress the conditions during a temporary absence or a conditional release.

A member of the parole board or, after consulting the parole board, the person designated may reinforce or add to the conditions.

A decision under the second paragraph may not be made without giving the offender an opportunity to submit observations.

168. The decision shall be rendered in writing and include reasons. A copy shall be transmitted as soon as possible to the offender, to the secretary of the parole board and to the correctional services.

DIVISION IX

REVIEW

169. A person may, if the parole board renders a decision refusing or revoking his or her temporary absence or conditional release or ordering its termination, apply for a review of the decision by a committee composed of three full-time or part-time members of the parole board who did not take part in the initial decision.

170. The application must be made in writing within seven days of the decision in the case of a temporary absence and within fourteen days in the case of a conditional release, and establish that

(1) the members of the parole board did not comply with the applicable legislative prescriptions ; or

(2) the decision was based on incomplete or erroneous information.

171. The committee, after giving the person an opportunity to submit observations, shall make a determination on the record and may render either of the following decisions:

(1) affirm, cancel or vary the decision; or

(2) order a new review of the case and maintain the decision pending review.

172. The committee must render a majority decision within seven days of the application in the case of a temporary absence and within fourteen days in the case of a conditional release, and shall transmit the decision to the offender and to the correctional services.

CHAPTER V

VICTIMS

173. Victims are entitled to be treated with courtesy, justice and comprehension and in a manner that is respectful of their dignity and privacy.

174. For the purposes of this Act, a victim is any natural person who suffers physical or psychological injury or incurs property loss as a result of the perpetration of an offence.

If the person referred to in the first paragraph dies, is a minor or is otherwise unable to receive communication of the information to be communicated under section 175 or to make representations, the person's spouse, a relative or a child of the person or any other person in whose custody or care the person is placed shall, if he or she applies therefor, be considered to be a victim.

175. The facility director or the chair of the parole board, as the case may be, must take all reasonable measures to communicate to a victim under the terms of a government policy such as the policy on domestic violence or sexual assault, a victim of an offence relating to a behaviour related to pedophilia and any other victim who so requests all or part of the following information, unless there is reasonable cause to believe that the disclosure would compromise the safety of the offender:

(1) the date of the offender's eligibility for a temporary absence for reintegration purposes or in preparation for conditional release or of the offender's eligibility for conditional release;

(2) the date of the offender's temporary absence for reintegration purposes, in preparation for conditional release or for a family visit or of the offender's conditional release together with the attached conditions and the offender's destination during such absence; and

(3) the date of the offender's full release.

The same rules apply with respect to any other person if there is reasonable cause to believe that the offender's release may compromise the safety of that person.

176. A victim may make written representations to the facility director or to the president of the parole board, as the case may be, concerning a temporary absence for reintegration purposes, in preparation for conditional release or for a family visit or a conditional release granted to an offender.

CHAPTER VI

COORDINATION BODIES

DIVISION I

COMITÉ DE CONCERTATION DES SERVICES CORRECTIONNELS ET DE LA COMMISSION QUÉBÉCOISE DES LIBÉRATIONS CONDITIONNELLES

§1. — *Establishment*

177. A coordinating committee called the "Comité de concertation des Services correctionnels et de la Commission québécoise des libérations conditionnelles" is hereby established.

§2. — *Mandate*

178. The mandate of the committee is

(1) to facilitate the harmonization of the respective conceptions and practices of the correctional services and the parole board in accordance with the orientations and general policies established by the Minister ;

(2) to establish a research program ;

(3) to harmonize the continuing education programs of the correctional services and the parole board ;

(4) to foster coordinated implementation by the correctional services and the parole board of changes rendered necessary by changes in legislation, social trends, information and communication technologies, professional practices, government policies and orientations and other transformations in the correctional environment that may affect existing practices ; and

(5) to carry out any mandate conferred on it by the Minister.

§3. — *Composition and operation*

179. The committee shall be composed of the Deputy Minister of Public Security, the Associate Deputy Minister for Correctional Services and the chair of the parole board.

The committee may also retain the services of any person to act as an advisor.

180. The committee shall be chaired by the Deputy Minister, who shall direct its activities and coordinate its work.

The committee shall meet as often as is necessary in the carrying out of its mandate and shall not later than 30 June each year transmit to the Minister a report on its activities.

DIVISION II

CONSEIL DES PRATIQUES CORRECTIONNELLES DU QUÉBEC

§1. — *Establishment*

181. A corrections council called the "Conseil des pratiques correctionnelles du Québec" is hereby established.

182. The corrections council shall have its head office in the territory of Ville de Québec.

§2. — *Mandate*

183. The mandate of the corrections council is to facilitate collaboration and coordinated action among the various stakeholders of society involved in the reintegration of offenders into the community and to seek continued improvement of the correctional system.

Within the scope of its mandate, the corrections council shall

(1) promote public awareness of the issues involved in the reintegration of offenders into the community and participate in social debate in that respect;

(2) encourage communication between the various stakeholders having an interest in the reintegration of offenders into the community;

(3) encourage collaboration between the correctional services, the parole board and their corrections partners;

(4) encourage and promote scientific research on the correctional system; and

(5) give advice on any other subject, at the request of the Minister.

§3. — *Composition and operation*

184. The corrections council shall be composed of eighteen members including

(1) a chair appointed by the Minister ;

(2) twelve persons recognized for their expertise or interest in the correctional system, appointed by the Minister after consultation with the groups concerned ;

(3) the Associate Deputy Minister for Correctional Services or his or her representative ;

(4) three members of the managerial personnel of the correctional services, appointed by the Minister ; and

(5) the chair of the Commission québécoise des libérations conditionnelles or his or her representative.

The chair of the corrections council shall be appointed for a term not exceeding five years.

The persons referred to in subparagraphs 2 and 4 of the first paragraph shall be appointed for a term not exceeding three years. However, five members of the first council shall be appointed for one year, five members for two years and five members for three years.

The term of a member may not be renewed more than once. At the end of their terms, the members shall remain in office until they are replaced or reappointed.

185. The chair shall direct the activities of the corrections council and coordinate its work. The chair shall also act as liaison between the corrections council and the Minister.

If the chair is unable to act, the Minister shall designate one of the members to replace the chair.

186. The members of the corrections council shall receive no remuneration, except in the cases, on the conditions and to the extent that may be determined by the Government.

The members are, however, entitled to the reimbursement of expenses incurred in the exercise of their functions, on the conditions and to the extent determined by the Government.

187. The corrections council shall meet as often as necessary, at the request of the chair, of a majority of the members or of the Minister.

The corrections council may hold its sittings at any place in Québec.

Ten members, including the chair, shall constitute a quorum.

In the case of a tie, the chair has a casting vote.

188. The corrections council shall transmit to the Minister, not later than 30 June each year, a report on its activities ; the report must also contain all the information that the Minister may require.

189. The secretarial services of the corrections council shall be furnished by the Ministère de la Sécurité publique.

CHAPTER VII

SPECIAL RESPONSIBILITIES OF THE MINISTER OF PUBLIC SECURITY

190. The Minister shall be responsible for determining the general policies concerning Québec's correctional system. More particularly, the Minister shall be responsible for developing and proposing strategies and policies in such matters.

191. The Minister shall see to the enforcement of the legal standards applicable in the field of corrections. The Minister shall encourage coordinated action on the part of the various stakeholders in the field of corrections.

192. The Minister shall promote and encourage, as regards the reintegration of offenders into the community, initiatives from the various social players, including the creation of associations devoted to offender reintegration, in particular through financial or technical support, on the conditions the Minister determines. The Minister shall disseminate information to enable citizens to become involved in the pursuit of the objectives of this Act.

CHAPTER VIII

REGULATORY POWERS AND DIRECTIVES

193. The Government may, by regulation,

(1) determine, in addition to the powers already provided for in this Act, the powers that the director of a correctional facility may exercise ;

(2) establish with respect to correctional officers, probation officers, correctional counsellors or managers working with persons entrusted to the correctional services, specific rules of conduct that may be adapted for the various categories of position concerned or made applicable only to certain of them and that determine

(*a*) their duties and standards of conduct in their relations with persons entrusted to the correctional services,

(*b*) the implementation mechanisms, including the designation of the persons responsible for ascertaining compliance with those rules, and

(*c*) the sanctions applicable in case of violation;

(3) establish standards respecting the administration and internal management of correctional facilities and the surveillance and security measures that must be taken in correctional facilities;

(4) establish a procedure to process complaints from inmates;

(5) determine the cases in which persons entrusted to the correctional services, visitors, personnel members and the cells of a correctional facility may be searched, the kinds of searches permitted, the conditions in which searches may be conducted and the persons or categories of persons who may conduct such searches;

(6) prescribe administrative segregation measures that may be taken against an inmate where there are reasonable grounds to believe that the inmate is in possession of contraband and, for that purpose,

(*a*) determine the categories of inmates who may be the subject of administrative segregation measures;

(*b*) designate the employees or categories of employees who are authorized to impose administrative segregation measures and determine their powers;

(*c*) determine the cases in which administrative segregation measures may be imposed, their duration and the conditions applicable to their implementation;

(*d*) specify the rules of procedure for the imposition of administrative segregation measures, in particular as regards the rights of inmates;

(*e*) prescribe a mechanism for the review of such a decision by the director of the correctional facility, determine its powers, establish the time frame for the review and provide for the inmate's right to submit observations to the director;

(7) determine, in addition to the responsibilities already provided for in this Act, the responsibilities of inmates;

(8) determine the measures that a member of the personnel of a correctional facility must take on becoming aware of a breach of discipline, establish the rules of procedure and decision criteria to be used by discipline committees as well as the punishment they may impose, and determine the conditions applicable to the decision review mechanism;

(9) establish standards respecting hygiene, health care, physical exercise, food, clothing and other articles that must be provided to inmates;

(10) determine the classes of persons who may visit inmates or who are authorized to visit correctional facilities, and the rules applicable in such circumstances;

(11) regulate the application of the provisions of this Act that relate to remission;

(12) determine the measures that must be taken upon the release of inmates to meet their basic needs;

(13) determine the content of the record transmitted to the director by a temporary absence examining board or, in the case of a review, the record transmitted by a director to the person designated by the Minister;

(14) specify the terms and conditions applicable to the preparation and execution of an order imposing hours of community service;

(15) fix criteria for the establishment of a program of activities and establish standards for its implementation;

(16) establish standards respecting the remuneration and other conditions of employment of persons exercising functions under a program of activities;

(17) establish the conditions subject to which a fund may financially assist an inmate;

(18) fix the percentage of remuneration owed to an inmate to be paid into a fund, which may vary according to criteria the Government determines;

(19) determine the rules applicable to the making of a contract by a fund concerning the carrying out of activities inside or outside a correctional facility;

(20) determine the rules applicable to loans contracted by a fund to finance a program of activities;

(21) determine the standards applicable to the management of the sums that make up a fund referred to in section 75 or 104 and determine the source of other sums that may make up such a fund;

(22) establish the conditions subject to which the services, the personnel, the premises and the equipment of a correctional facility may be put at the disposal of a fund;

(23) determine the rules applicable to the liquidation of a fund established in a correctional facility;

(24) set the limits within which the central fund is to determine the contribution to be paid by each fund, which may vary according to criteria the Government determines;

(25) determine the allowance an inmate in a correctional facility may receive out of the remuneration owed and the purchases and reimbursements the inmate may make;

(26) determine, for the purposes of the second paragraph of section 78, the cases where an authorization may not be granted without taking into account the opinion of the person designated for that purpose;

(27) determine the nature of the information the parole board is required to transmit to a person eligible for conditional release;

(28) determine the regions for the purposes of section 120; and

(29) establish rules of procedure for the application of Chapter IV of this Act.

In case of discrepancy between the rules of conduct established under subparagraph 2 of the first paragraph and the standards of ethics and discipline established under the Public Service Act, the more demanding rules and principles apply.

194. The Minister or the person designated by the Minister and the director, for the facility under his or her management, may, subject to the regulations, issue directives respecting any matter referred to in subparagraphs 3, 9 and 12 of the first paragraph of section 193.

A directive issued by a facility director must be submitted to the Minister or person designated by the Minister for approval.

CHAPTER IX

PENAL PROVISIONS

195. Any person who contravenes the provisions of section 11 is guilty of an offence and is liable to a fine of $250 to $2,500.

196. Any person who is employed by a community-based organization, a Native community or a group of communities and who, without being duly authorized to do so, discloses or communicates confidential information that has been transmitted to him or her within the scope of an agreement entered into under section 31 or 112 is guilty of an offence and is liable to a fine of $250 to $2,500.

197. Any person who deceives others into believing that the person is a member of the personnel of the correctional services having the status of peace officer, in particular by wearing a uniform or a badge, is guilty of an offence and is liable to a fine of $500 to $3,000.

198. Any officer of the correctional services who wears the uniform, badge or service weapon or uses other items belonging to the employer when not on duty or authorized by his or her superior is guilty of an offence and is liable to a fine of $500 to $3,000.

199. Any person who helps or, by encouragement, advice or consent or by an authorization or order, induces another person to commit an offence under this Act, is guilty of an offence. Any person found guilty under this section is liable to the same penalty as is prescribed for the offence that was committed.

CHAPTER X

MISCELLANEOUS PROVISIONS

200. The parole board must, not later than (*insert here the date occurring three years after the coming into force of section 136*), report to the Minister on the application of section 136 and on the advisability of maintaining it in force or, as the case may be, amending it.

The form and tenor of the report shall be determined by the Minister.

The report shall be tabled in the National Assembly by the Minister within fifteen days of receipt if the Assembly is sitting or, if it is not sitting, within fifteen days of resumption.

201. Only sections 12 to 48 and paragraph 11 of section 51 of the Act respecting occupational health and safety (R.S.Q., chapter S-2.1) apply to

(1) remunerated work performed by an offender within the scope of a program of activities ; the reintegration support fund of the correctional facility where the offender is in custody, established pursuant to section 74, is presumed to be the offender’s employer ; and

(2) hours of community service performed by an offender under a probation or suspension order ; the Government in such case is presumed to be the offender’s employer.

The contribution of the employer is established according to the standards applicable pursuant to that Act by the Commission de la santé et de la sécurité du travail.

202. Chapter III of the Public Administration Act (R.S.Q., chapter A-6.01), Chapter IV of the Building Act (R.S.Q., chapter B-1.1), the Labour Code (R.S.Q., chapter C-27), the Act respecting collective agreement decrees (R.S.Q., chapter D-2), the Public Service Act (R.S.Q., chapter F-3.1.1), the Act respecting manpower vocational training and qualification (R.S.Q., chapter F-5), the Master Electricians Act (R.S.Q., chapter M-3), the Master Pipe-Mechanics Act (R.S.Q., chapter M-4), the Act respecting labour standards (R.S.Q., chapter N-1.1) and the Act respecting labour relations, vocational training and manpower management in the construction industry (R.S.Q., chapter R-20) do not apply to inmates and offenders who carry out

(1) work inside a correctional facility;

(2) work outside a correctional facility in an enterprise operated by the reintegration support fund of the facility; or

(3) hours of community service performed under a probation or suspension order.

203. The Minister of Public Security is responsible for the administration of this Act.

CHAPTER XI

AMENDING PROVISIONS

DIVISION I

GENERAL AMENDMENT

204. The words “Act respecting correctional services (chapter S-4.01)” are replaced by the words “Act respecting the Québec correctional system (2002, chapter 24)” in the following provisions:

(1) subparagraph *k* of the first paragraph of section 1 of the Food Products Act (R.S.Q., chapter P-29);

(2) section 11 of the Youth Protection Act (R.S.Q., chapter P-34.1);

(3) paragraph 1 of section 38 of the Act respecting the determination of the causes and circumstances of death (R.S.Q., chapter R-0.2);

(4) paragraph 8 of section 1 of Schedule I to the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10);

(5) paragraph 11 of section 2 and the first paragraph of section 9 of the Tobacco Act (R.S.Q., chapter T-0.01);

(6) the first paragraph of section 3 of the Marine Products Processing Act (R.S.Q., chapter T-11.01).

DIVISION II

SPECIFIC AMENDMENTS

205. Section 12.1 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001) is amended

(1) by replacing "fund for the benefit of confined persons established in a house of detention under section 22.0.1 of the Act respecting correctional services (chapter S-4.01) if he" by "reintegration support fund established in a correctional facility under section 74 of the Act respecting the Québec correctional system (2002, chapter 24) if the person";

(2) by replacing "22.0.16 to 22.0.18" in the second paragraph by "91 to 93".

206. Sections 294 and 296 of the said Act are amended by replacing "to a fund for the benefit of confined persons contemplated", wherever those words appear, by "to a reintegration support fund referred to".

207. Section 9 of the Tobacco Act (R.S.Q., chapter T-0.01) is amended by replacing "warden of a house of detention", wherever those words appear by "director of a correctional facility", and "warden may permit" by "director may permit".

CHAPTER XII

TRANSITIONAL PROVISIONS

208. The part-time members of the Commission québécoise des libérations conditionnelles in office on (*insert here the date of coming into force of section 120*) are deemed, for the unexpired portion of their term of office, to have been appointed as community members.

209. Unless the context indicates otherwise, in every text or document, whatever the nature or the medium, a reference to the Act to promote the parole of inmates or the Act respecting correctional services, or any of their provisions, is a reference to this Act or to the corresponding provision of this Act.

210. This Act replaces the Act to promote the parole of inmates (R.S.Q., chapter L-1.1) and the Act respecting correctional services (R.S.Q., chapter S-4.01).

CHAPTER XIII

FINAL PROVISION

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

SCHEDULE I

OATH OF DISCRETION
(*Sections 32 and 115*)

I swear that I will not reveal or make known, without being duly authorized, any nominative information or any information capable of compromising the safety of the population, members of the personnel or offenders, that may come to my knowledge in the exercise of my functions.

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