

REGULATION TO AMEND THE REGULATION OF THE COURT OF QUÉBEC

Code of Civil Procedure

(chapter C-25.01, art. 63).

Code of Penal Procedure

(chapter C-25.1, art. 368).

Act respecting Access to documents held by public bodies and the Protection of personal information

(chapter A-2.1, s. 153).

Police Act

(chapter P-13.1, s. 255).

Act respecting the protection of personal information in the private sector

(chapter P-39.1, s. 68).

Act respecting the Administrative Housing Tribunal

(chapter T-15.01, s. 107).

Courts of Justice Act

(chapter T-16, s. 146).

Criminal Code

(R.S.C. 1985, c. C-46, ss. 482 and 482.1).

Youth Criminal Justice Act

(S.C. 2002, c. 1, s. 17).

1. The Regulation of the Court of Québec (chapter C-25.01, r. 9) is amended in section 14 by replacing "and to testify" by "or to testify".

2. Section 16 is amended in the French text by replacing "versés" in the first paragraph by "déposés".

3. Section 17 is amended by adding the following after the first paragraph:

"Documents in a sealed envelope are filed in a 22.9 x 30.5 cm (9 x 12 in) or 24.1 x 37.5 cm (9½ x 14¾ in) envelope on the back of which the following information must appear, in block letters:

(1) the record number;

- (2) the date of filing;
- (3) the identity of the filer and the party represented, if applicable;
- (4) the exhibit number and the nature of the document filed.

The filing of a document that does not satisfy this section is refused.”.

4. Section 18 is amended

- (1) by inserting "or underlining" in the first paragraph after "dotted line";
- (2) in the French text by replacing "versé" in the second paragraph by "déposé".

5. Section 19 is amended

- (1) by replacing "produced" in the first paragraph by "filed" and "using technology-based media" at the end by "as a technology-based document";
- (2) by striking out "filed" at the end of the second paragraph.

6. Section 25 is amended by replacing "record of the Court of Québec" in the third paragraph by "court record".

7. Section 27 is amended in the French text by replacing "paraît" in the second paragraph by "paraît".

8. Section 28 is amended

- (1) by replacing the second paragraph by the following:

“A party foreseeing that it will not be able to proceed on the date set by the court or applying to have a subpoena or summons cancelled must immediately notify the opposing party and make an application for that purpose to the coordinating judge, associate coordinating judge or a judge designated by either of them.”.

- (2) by striking out ", excepting Saturdays," in the fourth paragraph;

- (3) by replacing ", ensuring that the best interests of justice are served" at the end of the fifth paragraph by "in the best interests of justice".

9. Section 35 is amended

- (1) in the French text of the first paragraph by inserting "recueilli" after "Tout témoignage" and "en" after "manière à";

- (2) by replacing "filed" in the third paragraph by "presented".

10. Section 36 is replaced by the following:

“36. Transcript or copy of sound recording. When a transcript of evidence is ordered by the judge, the clerk must provide the judge with the transcript within 30 days unless the judge decides otherwise.

Unless otherwise provided or otherwise ordered by a judge, any person may obtain a copy of the sound recording of the trial from the clerk on payment of the fees under the Tariff of fees for the recording and transcription of depositions of witnesses (chapter S-33, r. 1).

Every transcript of an oral judgment must be delivered to the judge who rendered the judgment to allow the judge to verify its accuracy before the transcript is given to the party requesting it. The verified transcript is also filed in the court record.

In youth protection and adoption matters, except if an appeal has been filed, the sound recording of the trial cannot be copied or transcribed without authorization from the court, which sets the conditions for access and disclosure. In such matters, the clerk stores the transcript of the hearing separately from the record.

In youth criminal justice matters, the original transcript of the hearing must be filed in the record.”.

11. Subparagraph *k* of paragraph 5 of section 37 is revoked.

12. Section 38 is amended by replacing “for case law, the reference and summary of the decision or order” in the second paragraph by “for a judicial decision, its reference and summary”.

13. Section 39 is amended by replacing "chief judge" by "Court of Québec".

14. Section 42 is amended in the French text by replacing "à son" by "au".

15. Section 43 is amended by replacing "filed with" in the second paragraph by "accompanied by".

16. Section 50 is amended in the French text by replacing "par" after "l'instruction, l'interrogatoire" by "sur".

17. Section 55 is amended in the French text by replacing "versée" by "déposée".

18. Section 59 is amended by replacing "60 days" by "3 months".

19. Section 61 is amended by replacing the third paragraph by the following:

"A copy of the brief must be a paper version and as a technology-based document, if available. In both cases, the copy must be sent to the associate coordinating judge responsible for the Administrative and Appeal Division. The copy of the technology-based document must be sent to the judge in Word format and in PDF format to the other parties."

20. Section 62 is amended

- (1) by inserting "or memorandum" after "brief" wherever that term appears;
- (2) by striking out "before the time limit expires" at the end of the first paragraph;
- (3) by replacing "the clerk of the Court of Québec notes the failure and issues a certificate of lapse of appeal" at the end of the second paragraph by "the appeal may be refused on request to the associate coordinating judge responsible for the Administrative and Appeal Division."

21. Section 64 is amended by inserting "on them" after "comment".

22. Section 67 is amended

- (1) in the French text by striking out "**Les**" at the beginning;
- (2) by striking out "(article 352 of the Code of Civil Procedure (chapter C-25.01))" and "(article 357 of the said Code) in paragraph a";
- (3) by inserting "excerpts of" at the end after "exhibits and";
- (4) by replacing "all and only those exhibits and depositions necessary" at the end by "all the exhibits and depositions relevant";
- (5) by striking out "(article 372, first paragraph, of the Code of Civil Procedure)" at the end.

23. Section 68 is amended in the first paragraph

- (1) by replacing "Schedule III may be produced" by "When Schedule III is filed";
- (2) by striking out "in which case";
- (3) by replacing "produced" by "reproduced".

24. Section 69 is amended by striking out "(article 99, third paragraph, Code of Civil Procedure (chapter C-25.01))" in the portion before paragraph 1.

25. Section 70 is amended in the French text by replacing "**L'appel**" in the first paragraph by "**Appel**".

26. Section 71 is amended in the first paragraph

(1) by replacing "The following rules apply to the format of a brief" in the portion before subparagraph 1 by "The brief must be presented as follows";

(2) in the French text by replacing "**Les volumes**" at the beginning of subparagraph 9 by "**Volumes**";

(3) in the French text by replacing "**Les pièces**" at the beginning of subparagraph 10 by "**Pièces**";

(4) in the French text by replacing "**Les dépositions**" at the beginning of subparagraph 11 by "**Dépositions**".

27. Section 72 is replaced by the following:

"72.Copies and notification. A copy of each brief is filed at the court office in duplicate in paper form and in one copy as a technology-based document, if available.

The parties are notified by delivery to each party of one copy in paper form or as a technology-based document. Proof of notification within the time limit must be filed at the court office within 2 working days."

28. Section 76 is amended

(1) by replacing "Five" by "Two";

(2) by striking out "(articles 370 and 374 of the Code of Civil Procedure (chapter C-25.01))" at the end.

29. Section 78 is amended in the French text by replacing "instruction" wherever that term appears by "audience".

30. Section 81 is amended by replacing "court clerk" by "clerk of the Court of Québec".

31. Section 82 is amended by striking out "to the Court of Québec" at the end.

32. Section 89 is amended by replacing "court office" by "office of the Court of Québec".

33. The Regulation is amended by replacing "rules of practice" in the heading of subdivision 1 before section 94 and wherever that expression appears in sections 94, 97 and 113 to 117 by "directives".

34. The Regulation is amended by replacing "motion" in the heading of subdivision 4 before section 103 and wherever that term appears in sections 94, 103 to 106, 109 and 117 by "application", with the necessary modifications.

35. Section 98 is amended by inserting "; the date on which the information was sworn to;" after "number of charges".

36. Section 104 is amended

(1) by inserting "before the date set for the hearing" after "days" in the first paragraph;

(2) by replacing "must be served within at least 30 days" at the end of the second paragraph by "must be preceded by a notice of presentation of at least 30 days before the date set for the hearing".

37. Section 119 is amended by adding the following after the first paragraph:

"This section does not apply to an application referred to in the second paragraph of section 104 of this Regulation."

38. The Regulation is amended by inserting the following before Division I of Chapter V:

"DIVISION 0.I

FOR ALL MATTERS HEARD BY THE YOUTH DIVISION

§ 1. — *Rolls and hearings*

119.1. Access to rolls. The lawyers for the parties may consult the rolls on the hearing day in the courtroom or at the court office. The coordinating judge may arrange a different time to meet the needs of a judicial district.

119.2. Separate rolls. Separate rolls for hearings in matters of youth protection, adoption and criminal and penal matters are drawn up by the clerk. The roll for each courtroom is kept by the clerk at the court office."

39. Section 126 is replaced by the following:

"126. Establishment of a child's identity, date of birth and filiation. A child's identity, date of birth and filiation must be established not later than at the beginning of the hearing on the merits of an application for protection or any other time authorized by the judge. The information is established by a birth certificate or copy of an act of birth issued in the year in which it is filed or at any other time authorized by the judge. A copy or a transfer may be substituted once its conformity has been verified by the judge.

If the certificate of birth or the copy of the act of birth is written in a language other than French or English, it must be translated when filed.

If one or both of the parents are deceased, the filing of a photocopy of the death certificate suffices.”.

40. Section 130 is amended

(1) by replacing "the study of the child's social situation by the director of youth protection, including recommendations" in the second paragraph by "the body of psychosocial analyses produced by a party, including the study of the child's social situation by the director of youth protection and the director's recommendations";

(2) by replacing "Arial 12 point typeface" at the end of the third paragraph by "on a letter-format sheet measuring 21.5 x 28 cm (8 1/2 x 11 inches) using Arial 12 point typeface".

41. Section 131 is amended

(1) by striking out "filed";

(2) by adding "and underlining or a line in the margin" at the end.

42. Section 132 is amended by replacing "Every report filed under article 292 of the Code of Civil Procedure (chapter C-25.01)" by "Every written statement by a witness".

43. The heading of subdivision 3 is amended by replacing "*Rolls and hearings*" by "*Adjournments*".

44. Section 137 is revoked.

45. Section 148 is amended by replacing "137" by "138".

46. Section 149 is replaced by the following:

“149. Establishment of a child's identity, date of birth and filiation. A child's identity, date of birth and filiation must be established not later than at the beginning of the hearing on the merits of an application for protection or any other time authorized by the judge. The information is established by a birth certificate or copy of an act of birth issued in the year in which it is filed or at any other time authorized by the judge. A copy or a transfer may be substituted once its conformity has been verified by the judge.

If the certificate of birth or the copy of the act of birth is written in a language other than French or English, it must be translated when filed.”.

47. The following is added after section 156:

“156.1. Consultation of record. A person entitled by law may, after the clerk has verified the person’s entitlement and identity, consult a record or obtain a copy of all or part of the record. The record may be consulted only in the presence of the clerk or a person designated by the clerk.

The clerk enters in the record the name and title of the person consulting the record and the nature and identification of the exhibits consulted or provided.”.

48. Subdivision 3 before section 159 is revoked.

49. Section 160 is amended by replacing "section 59 or 94" in the second paragraph by "sections 30(4), 52, 59, 94, 95, 98, 103, 104 and 109".

50. Section 161 is amended by adding the following after the first paragraph:

“Any application under the Canadian Charter of Rights and Freedoms, Part I of the Constitution Act, 1982, Schedule B to the Canada Act 1982 (U.K.), (1982, c. 11) must be preceded by a notice of presentation of at least 30 days before the date set for the hearing.”.

51. Section 162 is amended by replacing ", except if the judge is absent or unable to act" at the end by "if the judge is available within a reasonable time".

52. Section 163 is amended in the first paragraph

(1) by striking out "**custodial**" at the beginning;

(2) by inserting "59, " after "section".

53. Section 167 is amended in the French text by replacing "allégués" by "allégations".

54. Schedule I is replaced by the following:

“SCHEDULE I

(Section 6)

INDEXES AND REGISTERS

(1) The indexes and registers referred to in the second paragraph of section 6 of this Regulation must contain the following information and documents:

(I) **For the Youth Division, in civil matters:**

(A) **In matters of protection:**

- (1) an alphabetical index containing:
 - (a) the record number;
 - (b) the name and given name of the child and of the other parties;
 - (c) the date of birth and sex of the child.
- (2) a court register containing:
 - (a) the record number and the date it was opened;
 - (b) the name and given name of the child and of the other parties;
 - (c) the date of birth and sex of the child;
 - (d) the address of the residence or domicile of the child and of the other parties;
 - (e) the names, given names and addresses of the lawyers for the parties;
 - (f) a reference to the relevant section of a statute and the nature of the case;
 - (g) the nature and date of each of the pleadings in the record;
 - (h) the date of each court sitting;
 - (i) the date on which the record is completed and the date on which it is sent to the judge for advisement;
 - (j) the date of each judgment and a summary of the judgment;
 - (k) the date of filing of the notice of appeal;
 - (l) the record number of the court sitting in appeal or for judicial review and the date on which the record was transmitted to the office of that court;
 - (m) the date on which the record was returned to the court office.
- (3) a register of consultation of the records relating to the Youth Protection Act (chapter P-34.1) indicating, for each consultation:
 - (a) the record number and the date it was consulted;
 - (b) the name, given name and capacity of each person consulting the record;
 - (c) the signature of each person consulting the record;
 - (d) the name and given name of the person in whose presence the record was consulted.

(4) the information required under subparagraphs 1 and 2 must be inscribed on the cover of the record consulted.

(B) In matters of adoption:

(1) an alphabetical index under the original name and a second alphabetical index under the proposed given name and name of the person who is the subject of a proceeding, containing:

- (a) the number of the record(s);
- (b) the proposed given name and name of the person, where applicable;
- (c) the original given name and name of the person, if they differ from the proposed names;
- (d) the person's date of birth and sex;

(2) a court register containing:

- (a) the record number and the date it was opened;
- (b) the person's original given name and surname, sex, date of birth, and address of residence or domicile;
- (c) the proposed given name and name of the person, if they differ from the original names; if the person is a minor, the name of the director of youth protection;
- (d) if they are known, the given names and surnames of the minor's parents, tutor, guardian or spouse;
- (e) the names, given names and addresses of the parents;
- (f) the names, given names and addresses of the parties' lawyers;
- (g) a reference to the relevant section of a statute and the nature of the matter;
- (h) the nature of each of the pleadings and the date they were filed in the record;
- (i) the date of each court sitting;
- (j) the date on which the record is completed and the date it is sent to the judge for advisement;
- (k) the date of each judgment and a summary thereof;

(l) the date of the filing of the notice of a proceeding in appeal with the office of the court, the number of the record of the Court sitting in appeal, where available, and the date on which the record was transmitted to the office of that court;

(m) the date on which the record was returned to the office of the court;

(n) the date on which a party retrieves the original of an exhibit that the party filed in the record.

(3) a register of judgments containing:

(a) the original of all judgments rendered in matters of adoption, filed in the same numerical order as the records, with a certified copy of each judgment being added to the record.

(II) For the Youth Division, in criminal or penal matters:

(1) an alphabetical index containing:

(a) the record number;

(b) the young person's name, given name, date of birth and sex;

(c) the names and given names of the young person's parents, tutor, guardian or spouse, where applicable.

(2) a court register containing:

(a) the record number and the date it was opened;

(b) the name and given name of the young person;

(c) the young person's date of birth and sex;

(d) the name and given name of the young person's lawyer;

(e) the names and given names of the young person's parents, tutor, guardian or spouse, where applicable;

(f) the address of the residence or domicile of the defendant and that of the defendant's parents, tutor, guardian or spouse, if different;

(g) the name of the plaintiff or the informant, where applicable;

(h) a reference to the section of the statute under which the offence is alleged to have been committed by the young person;

(i) the date and stage of each hearing of the court;

(j) the date of the judgment and of the decision, where applicable;

- (k) the date of the filing of the notice of appeal;
- (l) the number of the record of the court sitting in appeal or judicial review under the Code of Civil Procedure (chapter C-25.01) and the date on which the record was transmitted to the office of that court;
- (m) the date on which the record was returned to the office of the court.”.

55. This Regulation comes into force on the fifteenth day following its publication in the *Gazette officielle du Québec*.