

**POUR
MIEUX
PROTÉGER**
ceux qui en ont besoin

ACT
to amend the Civil Code,
the Code of Civil
Procedure, the Public
Curator Act and various
provisions as regards the
protection of persons

Bill 18 adopted on June 2, 2020
Entry into force on November 1, 2022





FOR MORE INFORMATION

By phone:

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Monday, Tuesday, Thursday and Friday:

8:30 a.m. to 12 p.m. and 1 p.m. to 4:30 p.m.

Wednesday:

10:00 a.m. to 12:00 p.m. and 1:00 to 4:30 p.m.

By email or by mail

To use our email box or
to know the address of our offices:

[Québec.ca/curateur-public-contact-us](https://quebec.ca/curateur-public-contact-us)

GUIDING PRINCIPLES



**PRESUME THAT EVERYONE
HAS LEGAL CAPACITY**



**RESPECT THE PERSON'S
CIVIL RIGHTS, WISHES, AND
PREFERENCES AND PROMOTE
THEIR AUTONOMY**



**PREVENT ABUSE
AND MISTREATMENT**



**INTRODUCE PROTECTION
OR ASSISTANCE MEASURES
TAILORED TO THE PERSON'S
SITUATION**



**GIVE PRECEDENCE TO
RELATIVES, EXCEPT IN THE
PRESENCE OF A RISK OF
ABUSE OR A POSSIBLE
CONFLICT OF INTEREST**



**SIMPLIFY THE PROTECTION
SYSTEM FOR INDIVIDUALS
AND ORGANIZATIONS**

HIGHLIGHTS OF THE BILL

1. THE ASSISTANCE MEASURE

- This measure is for anyone who, due to a difficulty, wishes to be assisted in caring for themselves, administering their patrimony, or exercising their civil rights.
- Under this measure, the chosen assistant can act as an intermediary between the person and any third party such as a bank, or a government department or agency. They may not, however, sign documents or make decisions on behalf of the person.
- The Curateur public approves requests for assistance and has the power to investigate in relation to this measure.
- The name of the assistant is entered in a public register for a period of three years.

2. TEMPORARY REPRESENTATION

- Under this measure, the court may authorize an individual to perform a specific act on behalf of an incapable person, for example, renounce a succession.

3. SIMPLIFICATION OF PROTECTIVE SUPERVISION REGIMES

- Tutorship is the only form of protective supervision for incapable persons in Québec.
- The court must take into account the incapable person's faculties in determining whether the tutorship needs to be modulated. This decision helps determine the person's degree of autonomy and the acts they can perform alone.
- For all individuals under tutorship, the court must determine the time limits for their medical and psychosocial reassessments, which must not exceed five years.
- Tutors must take into account the wishes and preferences of incapable persons and involve them in the decisions that concern them.

4. ENHANCEMENT OF THE PROTECTION MANDATE

- Mandataries have the obligation to make an inventory of the property of incapable persons within 60 days of homologation of the mandate.
- Mandataries have the obligation to render an account to the individual designated in the mandate.
- Mandataries have the obligation to:
 - make decisions in the interests of mandators, respect their rights and safeguard their autonomy, taking into account their wishes and preferences;
 - take into account the condition of mandators, their needs and faculties, and any other circumstances in order to ensure their moral and material well-being;
 - maintain a personal relationship

5. TUTORSHIP TO A MINOR

- Public agencies, insurance companies, and liquidators of successions must advise the Curateur public 15 days before transmitting assets or paying an indemnity to a minor, except in cases provided for by law.

MODIFICATION OF THE SYSTEM TO PROTECT VULNERABLE PERSONS

PREVIOUSLY

3 FORMS OF PROTECTIVE SUPERVISION

ADVISOR TO A PERSON OF FULL AGE

- For individuals who are generally capable of caring for themselves and managing their affairs, but who sometimes need help in making certain decisions
- Appointment of an advisor to help or advise them in the administration of their property
- Legal steps required
- Medical and psychosocial assessments required
- Intervention of the advisor for all acts beyond simple administration
- Medical and psychosocial reassessments every three years

TUTORSHIP

- For individuals who are partially or temporarily incapable
- Appointment of a tutor to ensure the protection of the person and/or to administer their property and exercise their civil rights
- Legal steps required
- Medical and psychosocial assessments required
- The court may take into account an individual's capacities and rule that they can perform certain acts on their own
- Powers of simple administration granted to the tutor
- Medical and psychosocial reassessments every three years

CURATORSHIP

- For individuals who are totally and permanently incapable
- Appointment of a curator to ensure the protection of the person, to administer their property and exercise their civil rights
- Legal steps required
- Medical and psychosocial assessments required
- Powers of full administration granted to the curator
- Medical and psychosocial reassessments every five years

SIMPLIFIED TO

PROTECTION MANDATE

- To protect incapable persons
- Private contract
- Legal steps required
- Medical and psychosocial assessments required
- No compulsory oversight measure provided under the law
- Mandatary is obliged to make an inventory and render an account only if stipulated in the mandate

ENHANCED

TODAY

NEW DEVELOPMENTS

ASSISTANCE MEASURE

- Intended for all people who, because of a difficulty wish to be assisted in making decisions, exercising their rights and managing their assets
- The individual can choose the person(s) who will assist them (maximum 2)
- Non-judicial measure that promotes autonomy
- Medical and psychosocial assessments not required
- Assistants have no decision-making power
- Several layers of protection put in place
- Measure that expires after three years, with the possibility of reapplying

TEMPORARY REPRESENTATION

- For incapable individuals who need to be represented in performing a specific act
- Power of representation limited to that act
- Legal steps required
- Medical and psychosocial assessments required
- Measure that expires once the act is completed

1 FORM OF PROTECTIVE SUPERVISION a personalized tutorship

- For incapable persons
- Appointment of a tutor to ensure the protection of the person and/or to administer their property and exercise their civil rights
- Legal steps required
- Medical and psychosocial assessments required
- The court has the obligation to take into account the incapable person's capacities in determining whether the tutorship should be modulated
- Powers of simple administration granted to the tutor
- Time limits for medical and psychosocial reassessments must not exceed five years
- If it is obvious that the incapable person's condition will not change, the time period for the medical re-evaluation may exceed five years, but not more than ten years.

ENHANCED PROTECTION MANDATE

- To protect incapable persons
- Private contract
- Legal steps required
- Medical and psychosocial assessments required
- Mandatary is obliged to make an inventory
- Mandatary is obliged to render an account
- As needed, the Curateur public may be designated to receive the inventory and the accountability

HOW THE ASSISTANCE MEASURE WORKS

SUBMITTING THE APPLICATION

- Application can be made directly to the Curateur public or with assistance from a qualified legal professional
- Application submitted by the person who wishes to be assisted (assisted person)
- Assisted person chooses the assistant
- Obligation of the assistant to sign a statement about conflict of interest
- Obligation to remit a summary description of the assisted person's patrimony to the Curateur public
- Criminal background check done on the assistant

PROCESSING OF THE APPLICATION

- Interview with the person and their assistant; the assisted person is also interviewed alone
- Notification of the application to at least two relatives or friends of the assisted person

APPROVAL OF THE APPLICATION

- The Curateur public refuses or recognizes the assistant
- The assistant's name entered in a public register

DURING THE ASSISTANCE MEASURE

- Power of the Curateur public to investigate

END OF THE ASSISTANCE MEASURE

- Maximum duration of three years
- Possibility of submitting another application after that period
- The assisted person may ask the Curateur public to end the assistance measure at any time
- The Curateur public may end the assistance measure at any time, and the assisted person may contest this decision in court

THE NEW MEASURES ILLUSTRATED

THE ASSISTANCE MEASURE, TO HELP THOSE IN NEED



Jacqueline and Anne : IMPROVED COMMUNICATIONS

At 89, Jacqueline is still going strong. But she sometimes finds it hard to deal with government agencies and companies. Fortunately, under the assistance measure, her daughter Anne can give her a hand.

FOR EXAMPLE, ANNE CAN:

- call the cable company to find out why Jacqueline's bill has increased by \$50;
- accompany Jacqueline to the bank to make sure she understands the financial adviser's explanations.



Guy and Nicolas : A PROPERLY MANAGED BUDGET

Nicholas's intellectual disability does not prevent him from having a job, a girlfriend, and recreational activities. But the young man needs a little help with managing his limited budget. Fortunately, his father Guy can give him the help he needs.

FOR EXAMPLE, GUY CAN:

- contact Nicholas's bank about certain transactions that Nicholas doesn't understand and then explain them to him;
- advise Nicholas about his spending;
- call an agency to provide information.

TEMPORARY REPRESENTATION, TO TAKE OVER



Anya and Joël : AUTHORIZED REPRESENTATION

Anya has just come out of hospital after a car accident that left her with a brain injury. She deals with the repercussions of her injury quite well from day to day because she gets a lot of support from her friends and family, especially her brother Joël. Recently, however, she was served with a formal notice. The owners to whom she sold her house before her accident claim

to be victims of a hidden defect. Anya is now incapable. She doesn't understand the issues and is unable to express herself clearly to her lawyer. Joël has therefore been appointed by the court to represent her in this legal proceeding.

FOR EXAMPLE, JOEL CAN:

- retain a lawyer to represent Anya;
- give instructions to the lawyer;
- take care of any necessary follow-up;
- sign an amicable settlement.

