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Bill 143: Salient points regarding educational childcare services

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On June 16th of this year, Mr. Sébastien Proulx, Minister of Education, Recreation and Sports and Minister of Families, presented Bill 143 [1] to improve the educational quality and foster the harmonious development of educational childcare services (the "Bill").

The Bill proposes amendments to the *Educational Childcare Act*[2] (the "Act") and the *Educational Childcare Regulation*.[3] The main thrust of the Bill's intervention is aimed at ensuring the health and safety of children, providing parents with childcare services of comparable diversity and quality throughout Québec and fostering the harmonious development of childcare services.

Health and safety of children

First, the Bill reinforces the obligations of all childcare providers by specifically incorporating a new section into the Act which makes such providers responsible for ensuring the health, safety and well-being of children.[4] A non-exhaustive list of prohibited behaviour is also included. As a result, childcare providers cannot, among other things, apply degrading or abusive measures, use exaggerated punishment, denigration or threats, or employ abusive or disparaging language that could humiliate or frighten a child or undermine the child's dignity or self-esteem.[5] In the event of a violation of this provision, daycare or childcare centre permit holders and home childcare providers risk the suspension, revocation or non-renewal of their permits or their recognitions.[6] They will, by the same token, be liable to a fine ranging from $5,000 to $75,000.[7]

Moreover, the Bill reduces the number of children that a natural person without a permit or recognition can have in his or her care. Therefore, a person will not be permitted to offer or provide childcare services in return for parental contribution if that person does not hold a childcare or daycare centre permit or has not been recognized as a home childcare provider, unless the person in question:

> Is a natural person;
> Is self-employed;
> Provides childcare in a private residence where such childcare is not already being provided; and
> Welcomes up to four children, of whom not more than two are under the age of 18 months, including the person's own children under nine years of age and any other children under nine who ordinarily live with the person and are present while the childcare is provided.[8]

A person who violates this requirement is guilty of a penal offence and is liable to a fine of $1,000 to $10,000.[9]

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Quality and diversity of childcare services

Subsequent to the coming into force of the Bill, childcare providers will be subject to the obligation to promote the educational success of children, in particular to facilitate their transition into the school system. This aspect must be added to the educational program applied by childcare providers.[10]

Additionally, and once again with the goal of improving the quality of childcare services, childcare providers shall be required to participate, at the Minister's request, in a process to assess and improve the educational quality of the childcare provided by them, which process may include the provision of documents or information as well as the completion of quality assessment questionnaires.[11] Failure to comply with this process may result in an administrative penalty of $500 for each day of lack of compliance.[12]

Childcare services development

In order to foster the harmonious development of childcare services, the Bill imposes several other obligations on childcare providers and home childcare coordinating offices.

The Bill requires all childcare providers to register with the singlecontact access to childcare services designated by the Minister. As a result, childcare providers will be required to use only the waiting list generated by the single-contact access to childcare services to fill any vacant childcare service spots.[13] Childcare providers who do not register within the prescribed time limits,[14] will expose themselves to an administrative penalty of $500 for each day of lack of compliance[15] and to a fine ranging between $500 to $5,000.[16]

Furthermore, daycare centre permit holders who wish to increase the maximum number of children indicated on their permit shall be required to obtain the Minister's prior written authorization.[17] The same will be true for daycare or childcare centre permit holders who wish to permanently relocate their facilities to offer childcare services in another area.[18] Non-compliance with these requirements may result in an administrative penalty of $250 for each day of non-compliance.[19]

The Bill also adds the obligation for childcare providers and home childcare coordinating offices to send additional information to the Minister.[20] In the event of non-compliance, these entities may be subject to an administrative penalty of $500 for each day of noncompliance[21] and will be liable to a fine ranging between $500 to $5,000.[22]

In order to promote the harmonious development of educational childcare services, the Bill also sets forth the factors to be considered by the Minister when evaluating the needs and priorities in this regard,[23] and establishes a new advisory committee. The committee will henceforth be composed of seven members. In addition to current members there will also be one member designated by the body most representative of the daycare centres of the territory in question and which do not provide subsidized childcare and one member designated by the body most representative of the home childcare coordinating offices of the territory in question.[24] Members shall be designated for a renewable three-year term and no member may be prosecuted for acts performed in good faith in the course of his or her committee functions.[25]

Finally, the requirements for the issuance of non-subsidized daycare centre permits shall be reinforced by new conditions[26] and all permit applicants will henceforth be required to provide [27]

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additional information with their written applications to the Minister.

As of the date of publication of this newsletter, the Bill was still under review. It is not until the Bill is passed that we can be certain of its content. However, the date on which the Bill will come into force remains unknown. We will keep you informed of further developments.

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1. Bill 143, *An Act to improve the educational quality and foster the harmonious development of educational childcare services*, 1st Session, 41st Legislature, Quebec, 2017.
2. *Educational Childcare Act*, CQLR, c. S-4.1.1.
3. *Educational Childcare Regulation*, RLRQ, c. S-4.1.1, r.2.
4. Bill 143, *op. cit.* s. 3.
5. *Id.*
6. Bill 143, *op. cit.* s. 10 and Bill 143, *op. cit.* s. 23.
7. *Ibid*, s. 19.
8. *Ibid*, s. 4 and 5.
9. *Educational Childcare Act, op. cit.* s. 108.1.
10. *Ibid*, s. 1 and 2.
11. *Ibid*, s. 3.
12. *Ibid*, s. 16 and *Educational Childcare Act, op. cit.*. s. 101.3 and 101.5.
13. Bill 143, *op. cit.* s. 11.
14. The deadline has yet to be specified, but depending on the circumstances, it can be no later than May 31, 2018 or April 1, 2019. See Bill, s. 27 and 28.
15. Bill 143, *op. cit*. s. 16 and *Educational Childcare Act, op. cit*. s. 101.3 and 101.5.
16. Bill 143, *op. cit*. s. 20 and *Educational Childcare Act, op. cit*. s. 116.
17. Bill 143, *op. cit*. s. 8.
18. *Id.*
19. Bill 143, *op. cit*. s. 22 and *Educational Childcare Act, op. cit*. s. 16.1 and 123.1.
20. Bill 143, *op. cit*. s. 17.
21. Bill 143, *op. cit*. s. 16 and *Educational Childcare Act, op. cit*. s. 101.3 and 101.5.
22. Bill 143, *op. cit*. s. 19.
23. Bill 143, *op. cit*. s. 7.
24. *Ibid*, s. 18.
25. *Id.*
26. *Ibid*, s. 6.
27. *Ibid*, s. 21.

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