

Report of the Association of Christian Parent-
Educators of Québec (ACPEQ)
&
Homeschool Legal Defence Association of Canada
(HSLDA Canada)

BILL N^o 144

*Law modifying the Education Act and other legislative
provisions mainly concerning free educational services
and compulsory school attendance*

Recommendations relating to homeschooling in Québec
Presented to the Committee on Culture and Education

August 24, 2017

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Presentation of the Authors

Homeschooling has existed for over thirty years in Québec. The families who were pioneers of homeschooling united their efforts to create the **Association of Christian Parent-Educators of Québec** (ACPEQ). ACPEQ is a non-profit organization that aims to inform, support, and encourage families who have chosen to teach their children at home. ACPEQ equips parents through book recommendations, workshops and seminars as well as through our web site (www.acpeq.org) and through support groups. ACPEQ is the quintessential resource for homeschooling in Québec.

The ACPEQ conference is the annual meeting of parent-educators from all over Québec. Beginners or the more experienced can gain new knowledge on methods and strategies that address their needs. Speakers and experienced parents in the domain of homeschooling generously share their knowledge, their tools, and their secrets to success. Our rich and varied programming includes more than 25 workshops that explore various aspects of homeschooling: from how to begin to accessing post-secondary studies and everything in between. Parent-educators can also examine pedagogical material presented in the vendor hall and find the perfect resource to complete their program.

ACPEQ is pleased to help influence the next generation of policies and practices in the area of homeschooling. ACPEQ is affiliated with HSLDA (Homeschool Legal Defence Association of Canada). Together, we represent over 600 Québec families teaching nearly 2,000 school-age children. We also work in collaboration with leaders of provincial homeschool associations throughout Canada and the United States.

Since 1994, **Homeschool Legal Defence Association of Canada** (<https://hsllda.ca/>) has been representing homeschooling families across Canada, of which hundreds are in Québec. We help parents to understand their rights and responsibilities in order to better prepare them to assume their roles as home educators.

HSLDA collaborates with legislators and government officials in order that they better understand the precious contribution of homeschooling to society as well as to help them write legislative provisions that respect the right of parents to direct the education of their children.

When issues arise between homeschooling families and school boards or other government bodies, the legal counsel for HSLDA negotiates a satisfactory and peaceful solution which serves the best interests of the children concerned.

Executive Summary

We support the government's efforts aimed at establishing dialogue with the parent-educators of Québec, and we seek to maintain and promote a constructive relationship between the school boards and homeschooling families in the best interests of the children with regards to their right to a quality education.

We submit the following recommendations aimed at modifying the text of Bill 144:

- ⇒ We support article 2 of Bill 144 modifying the norms applicable to homeschooling from “equivalent to what is provided at school” to “appropriate teaching at home”. We believe that it would be beneficial for the children if the government affirmed the parents’ right to choose the curriculum for their children by modifying the wording of article 2(b) by **“a learning project chosen by the parents is presented to the competent school board and implemented by the parents.”**
- ⇒ We wish to see added, to article 9, the following provision affirming the parents’ right to direct the education of their children:

“The regulations shall not diminish or infringe on parents’ right to direct their children’s education in accordance with their conscientious beliefs, subject to such reasonable limits prescribed by law that can be demonstrably justified in a free and democratic society.”
- ⇒ We propose, in articles 3 and 9, that the “alternative procedures” to help families who homeschool and the school boards to resolve any issue with regard to a situation involving a child educated at home, be determined by the regulations.
- ⇒ We propose, in articles 4 and 16, clarifying that these provisions do not apply to parent-educators.
- ⇒ We propose, in article 12, equal representation on the part of parent-educators and representatives of groups of parent-educators, notably ACPEQ and HSLDA, to the advisory panel.
- ⇒ We support, in articles 9 and 12, the government’s proposition for the writing of a detailed guide for the use of parent-educators and we wish to contribute to the writing of the regulations and the guide for parent-educators.

Introduction

We, the Association of Christian Parent-Educators of Québec (ACPEQ) are pleased to submit this report, prepared jointly with the Homeschool Legal Defence Association of Canada (HSLDA). We appreciate the invitation to participate in the consultation process and submit this report.

In this report, we wish to offer feedback regarding the provisions of Bill 144 which affect homeschooling families in Québec. This report includes comments on Bill 144, and our proposals as to revisions for the following sections of Bill 144:

- Section 2 (Exemption from Compulsory School Attendance)
- Section 3 (Youth Protection)
- Sections 4 and 16 (Offences and Fines)
- Section 9 (The Regulations)
- Section 12 (Advisory Panel)

Where we have not commented on sections of Bill 144 relevant to homeschooling, we support the current wording. We thank the Committee for considering our submissions, the goal of which is to reaffirm the right of parents to direct the education of their children.

Section 2 (Exemption from Compulsory School Attendance)

We strongly support Section 2 of Bill 144, which changes the standard for homeschooling from “equivalent to what is provided at school” to “appropriate homeschooling.” This word change respects the unique nature of homeschooling, and acknowledges the reality that while a homeschool learning project may not exactly mirror public school, it still offers a rigorous and “appropriate” education beneficial to the children which produces highly competent and productive citizens, committed to society.

We suggest, nonetheless, a modification to the wording of section 2 of Bill 144 which modifies the *Education Act* with the following addition:

2. Section 15 of the Act is amended by replacing subparagraph 4 of the first paragraph by the following subparagraph:

“15(4) a student who receives appropriate homeschooling, provided the following conditions are met:

(a) a written notice to that effect is sent to the competent school board by his parents;

(b) a learning project is submitted to the competent school board and implemented by his parents;”

In the interest of greater transparency, we request that subparagraph (b) be revised as follows:

(b) a learning project chosen by the parents is presented to the competent school board and implemented by the parents;

We seek affirmation from the government of parents' right to choose curriculum for their children. Homeschoolers have a wealth of proven curriculum options to choose from that they did not have thirty years ago, as homeschooling continues to spread and becomes a recognized educational choice for families.

Section 3 (Youth Protection)

Section 3 of Bill 144 adds to the *Education Act* the following:

17.1. The school board must, at the Minister's request and using the information the Minister provides concerning a child who may not be attending school as required or concerning his parents, take any action with the child and his parents that is specified by the Minister to ascertain and, if applicable, regularize the child's situation. On that occasion, the school board must also inform the parents of the obligations arising from sections 14 to 17 and of the educational services the child is entitled to under this Act. The parents must provide the school board with any information it requires on their child's situation within a reasonable time. If the action taken does not allow the child's situation to be ascertained or regularized, the school board, after notifying the student's parents in writing, shall report this to the director of youth protection.

We request that the following addition be made:¹

17.2 Where a difference or conflict arises in the relationship of a homeschooled child with the school board, the parent or guardian, on behalf of that pupil, is entitled to immediate access to procedures established by regulation for the purposes of investigation and mediation of any differences or conflict. The school board shall not report a homeschooled child to the director of youth protection until:

- 1. reasonable efforts to resolve the difference or conflict through these procedures have been made; and,***
- 2. these efforts failed to resolve the difference or conflict.***

¹ The proposed s. 17.2 is adapted from s. 148 of the *Education Act*, 1995, SS 1995, c E-0.2, which can be located at <https://www.canlii.org/en/sk/laws/stat/ss-1995-c-e-0.2/latest/ss-1995-c-e-0.2.html>.

Homeschooling families should not find themselves in the category of negligent or abusive parents and be subjected to the involvement of youth protection authorities merely because a school board has a concern about the method of evaluation or content of a homeschool family's learning project. Parents who devote their full attention to directing their child's education but differ from the school board in their opinion of homeschool content and methods are simply not equivalent to parents who refuse to ensure their child's attendance without educating the child at all.

We urge the government to codify the establishment of “alternative procedures,” such as a system of mediation for disputes, to assist homeschooling families and school boards in resolving any differences or conflicts regarding a homeschooled child's education.

We propose that the Ministry of Education administer these procedures established in s. 459.5 To support this approach, we offer our collaboration to the government to develop a mediation process through the regulations and the proposed homeschooling guide.

Sections 4 and 16 (Offences and Fines)

Articles 4 and 16 - the proposed sections 18.0.1, 488.1, and 488.2 – address consequences for compromising a child's attendance at school.

Section 4 of Bill 144 adds to the *Education Act* the following:

18.0.1. No one may act in any manner that compromises a child's attending school as required. Any person who receives a child in a place where the child receives training or instruction not governed by this Act or the Act respecting private education (chapter E-9.1) is presumed to contravene the prohibition under the first paragraph on being notified by the Minister that the child is failing to attend school as required. Such a presumption may be rebutted, in particular by proof that the child is or was received fewer than 20 hours per week or only during the month of July or August.

Section 16 of Bill 144 adds to the *Education Act* the following:

488.1. Every person who contravenes section 18.0.1 is guilty of an offence and is liable to a fine of not less than \$1,000 nor more than \$10,000 in the case of a natural person or, in the case of a legal person, to a fine of not less than \$3,000 nor more than \$30,000 and, for any subsequent conviction, to a fine of not less than \$2,000 nor more than \$20,000 in the case of a natural person or, in the case of a legal person, to a fine of not less than \$6,000 nor more than \$60,000.

488.2. Every person who hinders a person designated under section 478 or 478.0.2 in the exercise of his functions or misleads the designated person by

misrepresentation is guilty of an offence and is liable to a fine of not less than \$500 nor more than \$5,000 in the case of a natural person or, in the case of a legal person, to a fine of not less than \$1,500 nor more than \$15,000 and, for any subsequent conviction, to a fine of not less than \$1,000 nor more than \$10,000 in the case of a natural person or, in the case of a legal person, to a fine of not less than \$3,000 nor more than \$30,000. The same applies to every person who refuses to provide any information or document to a person designated under section 478 that he is authorized to require under this Act.

We submit that these fines are more appropriate in the context of illegal schools than in the context of homeschooling. There is no need to create a system of fines that apply to homeschooling families. As stated earlier, the homeschooling community is motivated to work with the government and school boards in regularizing homeschooling in Québec.

We believe these provisions to be focused on illegal schools, and we ask for clarification of this in the legislation as follows:

18.0.2 Section 18.0.1 shall not apply to homeschooling parents.

488.3 Sections 488.1 and 488.2 shall not apply to homeschooling parents.

Section 9 (The Regulations)

We request the following addition, immediately after the proposed s. 448.1:

448.2. The regulations shall not diminish or infringe on parents' right to direct their children's education at and from their home in accordance with their conscientious beliefs, subject to such reasonable limits prescribed by law that can be demonstrably justified in a free and democratic society.

The Universal Declaration of Human Rights, to which Canada is a signatory, states at Article 26(3) that: "Parents have a prior right to choose the kind of education that shall be given to their children."²

² Universal Declaration of Human Rights, Article 26(3), accessed at <http://www.un.org/en/universal-declaration-human-rights/>.

In *B. (R.) v. Children's Aid Society of Metropolitan Toronto*, the Supreme Court of Canada commented on the application of the *Charter of Rights and Freedoms* in the context of parental rights to determine their child's medical treatment, and observed:

“Our society is far from having repudiated the privileged role parents exercise in the upbringing of their children. This role translates into a protected sphere of parental decision-making which is rooted in the presumption that parents should make important decisions affecting their children both because parents are more likely to appreciate the best interests of their children and because the state is ill-equipped to make such decisions itself. Moreover, **individuals have a deep personal interest as parents in fostering the growth of their own children. This is not to say that the state cannot intervene when it considers it necessary to safeguard the child's autonomy or health. But such intervention must be justified. In other words, parental decision-making must receive the protection of the Charter in order for state interference to be properly monitored by the courts, and be permitted only when it conforms to the values underlying the Charter.**”³ (*emphasis added*)

Homeschooling is legal in every Canadian province and territory, and the freedom to homeschool as proudly offered by our country and our province has for many years permitted numerous families to homeschool. We submit that the province of Québec has a unique opportunity to lead the way in Canada by affirming this internationally-recognized principle in provincial legislation: that **parents have the right to direct their children's education at and from their home with the protection of “reasonable limits prescribed by law that can be demonstrably justified in a free and democratic society.”**

Section 9 of Bill 144 adds the following to the *Education Act*:

448.1. The Government shall, by regulation, determine standards for homeschooling, which may, among other things, specify how the school board is to monitor homeschooled children.

These s. 448.1 regulations will constitute the “reasonable limits prescribed by law” on parents’ right to direct their children’s education referred to in our proposed s. 448.2. These regulations will ensure the balance between parents’ rights to direct their child’s education, the child’s right to receive an education, and the government’s interest in ensuring its citizens’ education.

We are eager to work in partnership with the Minister to develop regulations and policies with respect to monitoring that will provide guidance to homeschooling parents while facilitating the government’s interest in ensuring a high standard of education for Québécois children. We ask, as stakeholders in the process of drafting regulations regarding standards for Québécois homeschoolers, to participate in drafting the regulations and the homeschooling guide.

We ask that the future regulations and policies clearly prescribe the maximum legal responsibilities of school boards and the maximum legal requirements of homeschooling parents.

³ *B. (R.) v. Children's Aid Society of Metropolitan Toronto*, [1995] 1 SCR 315, 1995 CanLII 115 at p. 372 (English version) and para. 85 (French version) (SCC).

Alternative Procedures

We also ask for support from the Minister in dealing with disagreements between the school board and parents regarding the learning project. **While we will make detailed submissions to the government about the content of the regulations, we ask on a preliminary basis that the regulations include the following:**

- ⇒ At the beginning of the school year, parents provide the summary of their learning project and identify the subjects to be taught;
- ⇒ If the school board has concerns with the learning project, the school board shall notify the parent in writing of the concerns and give the parent a reasonable opportunity to address the concerns in writing. A mediation process directed by the Minister of Education could be established to assist school boards and parents in rectifying unresolved concerns. The process should include steps that must be taken before the school board seeks the involvement of the Director of Youth Protection;
- ⇒ At the end of the school year, parents choose one of the following options to establish that they have provided “appropriate homeschooling” for that year:
 - **Prepare a portfolio of the child’s work and present it to the school board for review;**
 - **Prepare a portfolio of the child’s work, obtain a review by a third party certified teacher or educational professional, and send the results to the school board;**
 - **Complete formal testing (standardized tests or other) administered by a third party and send the results to the school board; or,**
 - **Another method (we will make submissions at a later date as to alternative methods).**
- ⇒ At the end of secondary studies, the recognition of « appropriate education at home » permits access to vocational as well as post-secondary studies.

Section 12 (Advisory Panel)

Section 12 of Bill 144 adds to the *Education Act* the following:

459.5.1. 459.5.1. The Minister shall prepare a guide for school boards and parents on good homeschooling practices, and see that it is disseminated among school boards and parents.

459.5.2 The Minister shall establish a Québec-wide advisory panel on homeschooling. The panel shall advise the Minister on any matter he submits to it.

We support this proposal for the preparation of a guide for school boards and parents, as it promotes excellence in homeschooling and offers guidance in assessing homeschooling in Québec. We request that the Minister consult with the homeschooling community through the community's leadership, and that ACPEQ and HSLDA be invited to submit proposals regarding the content of the guide.

We also support the idea of a Québec-wide advisory panel on homeschooling. HSLDA has previously submitted concerns expressed by HSLDA members in Québec about the inconsistent treatment of homeschoolers by various school boards, and recommended a province-wide oversight of homeschooling as a solution. **We ask that the following be added at the end of s. 459.5.2, as a means to ensure that the advisory panel is familiar with and understanding of the issues facing Québec homeschooling families:**

The advisory panel shall be composed of at least equal representation for homeschooling parents and representatives from homeschooling groups.

In addition, we suggest that the guide be written by the advisory panel.

Conclusion

We appreciate having been able to share our expertise with the Committee and for having the opportunity to submit and present our report underlining the issues perceived by the homeschooling community. We trust that we have furnished significant clarification and that the Committee will consider these recommendations. We wish, in collaboration with the government, to ensure the best interests of children in the homeschooling community while respecting parents' rights to guide their children's education.

We offer our full collaboration to the government in order to establish good relationships with the homeschool community in Québec, for the good of present and future generations of Québec homeschooled children. We hope that this consultation process regarding Bill 144 will help the Québec homeschool community establish and maintain harmonious communications with school boards and the Ministry of Education

ACPEQ and HSLDA (Québec) remain at the disposal of the Committee to answer questions with respect to this report and our propositions concerning Bill 144.

Additional Information

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