

January 16, 2018

Mr. Richard Merlini
Chairman
Committee on Health and Social Services
Hôtel du Parlement
1045, rue des Parlementaires, bureau RC 24
Québec (Québec) G1A 1A4

Subject: Bill 157 – Act to constitute the Société québécoise du cannabis, to enact the Cannabis Regulation Act and to amend various highway safety-related provisions

Dear Mr. Chairman:

Within the framework of its mandate, the Québec Ombudsman reviews all bills and draft regulations introduced in the National Assembly or published in the *Gazette officielle du Québec*. When it deems necessary, it intervenes under section 27.3 of its constituting act,¹ which empowers it to call the attention of the government or a chief executive officer of a public body to legislative, regulatory or administrative reforms it deems to be in the public interest.

With this in mind, I read Bill 157, *Act to constitute the Société québécoise du cannabis, to enact the Cannabis Regulation Act and to amend various highway safety-related provisions*, introduced by the Minister for Rehabilitation, Youth Protection, Public Health and Healthy Living on October 31, 2017. Further to analyzing it, I wish to comment on a specific aspect of the Bill. Section 12 of Bill 157 enacts the *Cannabis Regulation Act*. This proposed Act, more specifically, section 7, will be my focus.

Under section 4 of the proposed *Cannabis Regulation Act*, it is prohibited for a minor to possess cannabis. For its part, federal Bill 45² would allow an individual who is 18 years of age or older to possess, in a public place,

¹ *Public Protector Act*, CQLR, c. P-32.

² *An Act respecting cannabis and to amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts*, Bill C-45 (3rd reading), 1st session, 42nd legislature (Can.), s.8(1)(a) *a contrario*.

cannabis, the total amount of which is equivalent to more than 30 g of dried cannabis.

Pursuant to section 7 of the *Cannabis Regulation Act*, it would nonetheless be prohibited for anyone to possess cannabis, regardless of quantity, in the following places:

- 1) *on grounds, on premises or in buildings placed at the disposal of an educational institution providing preschool education services, elementary and secondary school instructional services, educational services in vocational training or educational services to adults in general education, as the case may be;*
- 2) *on the grounds and in the facilities of a childcare centre or day care centre within the meaning of the Educational Childcare Act; or*
- 3) *on grounds, on premises or in buildings used for detention within the meaning of the Act respecting the Québec correctional system (references omitted).*

Even though the second paragraph of section 7 makes it possible for the Government to, by regulation, determine other places where cannabis possession is prohibited,³ it is worrisome to see that the prohibitions on possession do not include, from the outset, intermediate resources in facilities, community organizations or rehabilitation centres for young people with addictions or adjustment problems. This omission seems to be inconsistent with the purpose of the *Cannabis Regulation Act*, set out in section 1, which is to "prevent and reduce cannabis harm in order to protect the health and security of the public and of young persons in particular." This is even more glaring since the mission of the facilities which have been left out is precisely to reduce the risk of recidivism by guiding and supervising minors or to offer social integration services to young people who need help because of their behavioural, psychosocial, family or addiction problems.

For these reasons, I consider that an addition to section 7 is necessary to prevent potentially harmful situations in the places mentioned above, in the same way as educational institutions.

³ *Second paragraph of section 7 of the Cannabis Regulation Act, enacted by section 12 of Bill 157.*

Consequently, the Québec Ombudsman recommends:

R-1 That section 7 of the *Cannabis Regulation Act*, enacted by section 12 of Bill 157, be amended to include, on the list of places where everyone is prohibited from possessing cannabis, resources other than in a private residence that offer minors with addictions or adjustment problems residential services.

Yours respectfully,

Original signed

Marie Rinfret
Ombudsperson

c.c.: Ms. Lucie Charlebois, Minister for Rehabilitation, Youth Protection, Public Health and Healthy Living
Mr. Gaétan Barrette, Minister of Health and Social Services
Mr. Jean-Marc Fournier, Government House Leader
Mr. Pascal Bérubé, Official Opposition House Leader
Mr. François Bonnardel, Leader of the Second Opposition Group
Ms. Manon Massé, MNA for Sainte-Marie–Saint-Jacques
Mr. Michel Fontaine, Deputy Minister of Health and Social Services
Ms. Marie-Astrid Ospina D'Amours, Secretary, Committee on Health and Social Services
Ms. Carolyne Paquette, Secretary, Committee on Institutions