

Policy Matters Blog – Bill 96

Language rights under Health Act will not be tied to ‘historic anglophone’ definition

February 2, 2022 – The [Committee on Culture and Education](#) reconvened yesterday for its ongoing clause-by-clause consideration of [Bill 96, An Act respecting French, the official and common language of Québec](#). Members began with article 6 of the legislation, that requires the civil administration to use the French language, promote the languages’ quality, protect it, and ensure its development, all in an ‘exemplary manner’. Article 6 seeks to modify articles 13.1 and 13.2 of the [Charter of the French Language](#) (Bill 101).

Liberal members of the Committee proposed a [series of amendments](#) to specify that the civil administration must have the means necessary and specified measurable objectives to ensure the quality of and use of French, since there is ambiguity of what ‘exemplary’ means. The amendment was ultimately dropped after explanations by the government that a centralized language policy issued by the Minister for the French language would provide clarity and ensure a government-wide application of the Charter from which other ministries would not be able to derogate.

The Liberals proposed the addition of an interpretive clause, that would prevent the Charter (as modified by Bill 96) from restricting English-speaking persons from receiving health and social services in the English language ([Act respecting health services and social services \(Health Act\)](#), s.15). The government rebutted with a counterproposal: the addition of a 7th paragraph to article 22.5 of the Charter (article 15 of Bill 96), which specifically exclude s. 15 of the *Health Act*. This was accepted and the article was adopted.

This is significant, insofar as the language rights under the *Health Act* are not tied to the government’s ‘historic anglophone’ population as defined by eligibility to attend school in English. In theory, it would mean that the way article 15 of the Health Act is currently interpreted would be untouched (i.e. anyone speaking English could request health and social services in English depending on what is in the access program of that institution). In practice however, it may conflict with the ministerial language policy to be adopted and lead to confusion for administrators. This could lead to violations of the right to receive services in English as currently understood.

The Committee then moved on to proposed article 13.2, which defines and lays out some exceptions to the ‘exemplary’ use of French by the civil administration. They adopted an amendment that will add s.27 of the Charter to the exceptions. Section 27 requires clinical records to be drafted in French or in English, as the person drafting them sees fit (“however, each health service or social service may require such documents to be drafted in French alone. Resumés of clinical records must be provided in French on demand to any person authorized to obtain them”).

The second government amendment clarified proposed s. 13.2(3), which permits the civil administration from communicating in a language other than French (within the bounds of the exceptions) providing the practice did not become ‘systematic’. Committee debate turned around how this would be practically implemented, since one of the triggers for the exception is an oral request from an individual

to be addressed by the agency in a language other than French. How would the agency know if the person making the oral request was entitled to receive government service in a language other than French? The Liberals contested that a system to identify whether a person calling in to a government service has the right to receive service in English would be too complicated and impractical. The government clarified that the article is to put an end to “institutional bilingualism” and to integrate newcomers to speak French (i.e., only historical anglophones and their descendants will have the right to receive service in English, while newcomers will no longer have that right). The government amendment “[the agency] does not make systematic use of a language other than French, that is to say that, in cases where the provisions of this section grant it the right to use this other language, it nevertheless uses exclusively French as soon as he deems it possible” was ultimately adopted.

Articles 7, 8, 9, 11, and 13 of Bill 96 were adopted with little to no debate. Article 12, which would require civil agencies to file annual reports on the number of positions within their organizations requiring knowledge of another language was suspended pending verifications by the government.

Article 10, which adds articles 18.1 and 18.2 to the Charter, was discussed, with Liberal members pointing out that the important element of this article is the mention that the requirement to speak French is strictly “in the exercise of their functions” and not in personal conversation. Liberal MNA H  l  ne David noted that overzealous individuals may take this to the extreme and complain about two individuals speaking another language than French at work amongst themselves. After a few exchanges, the article was adopted, unchanged.

Finally, article 14 of the legislation, which addresses further instances where written agreements can be drawn up in a language other than French, was partially adopted.