

Parental Union for De Facto Spouses - Québec's New Family Law Legislation

On May 30, 2024, Québec's National Assembly passed Bill 56, introducing an Act respecting family law reform and establishing the parental union regime (the "new Act"). This Act received Royal Assent on June 4, 2024, and creates a parental union regime for de facto spouses who are parents of the same child, born or adopted after June 29, 2025. Various Québec laws, including the Civil Code of Québec ("CCQ"), will be amended to confer certain rights on de facto spouses within a parental union.

As a reminder, under current CCQ provisions, de facto spouses, whether they have children or not, have essentially no rights or obligations towards each other. Below is an overview of key elements of the new Act:

Creation of the Parental Union Regime

When de facto spouses—defined by the new Act as two individuals who share a community of life¹ and publicly represent themselves as a couple, regardless of the duration—become parents of the same child, born or adopted after June 29, 2025, a parental union regime will automatically be created from the birth (or adoption) of the child. If individuals who are not de facto spouses become parents of the same child, a parental union regime will be created once they become de facto spouses, or resume that status. Additionally, individuals who, as of June 29, 2025, are parents of the same child and are de facto spouses may², by mutual agreement, opt into the parental union regime.

Impact of the New Legislation

The primary effect of the parental union regime is the establishment of a parental union patrimony, which includes certain assets of the de facto spouses: family residences or the rights conferring their use, household furnishings, and motor vehicles used for family purposes. During the union, de facto spouses may³, by mutual agreement, modify the composition of the patrimony or choose to opt out entirely. Furthermore, de facto spouses who are parents of the same child

as of June 29, 2025, may choose to opt into the parental union patrimony.

Upon the termination of the parental union (e.g., due to the death of either de facto spouse, cessation of common life, or marriage of the spouses), the value of the patrimony is divided equally between the de facto spouses or between the surviving spouse and the heirs. However, certain deductions may be made (e.g., property owned prior to the union, or property inherited or gifted before or during the union).

Additional effects of the parental union regime include extending the rules protecting the family residence, previously applicable only to married or civil union spouses, to de facto spouses in a parental union. Moreover, upon the end of the parental union, a de facto spouse may apply to the court for a compensatory allowance if they believe they have contributed to the enrichment of the other spouse's patrimony, resulting in their own impoverishment.

Major Impact on Estate Law: De Facto Spouses in a Parental Union Regime as Legal Heirs

The new Act significantly impacts estate law by amending the CCQ's rules on legal devolution. De facto spouses in a parental union regime will now be recognized as legal heirs. For example, if a de facto spouse who is in a parental union regime dies without a will, one-third of their estate will pass to the surviving spouse, with the remaining two-thirds devolving to the couple's children and any other children of the deceased (e.g., from a previous union).

Practical Considerations for BMO Financial Professionals and Their Clients

- This historic reform in Québec family law will impact many BMO clients.
- Clients potentially affected by this legislation should consult their legal advisor (notary or lawyer) to determine the best course of action, particularly regarding the parental union patrimony and the review and potential amendment of their will.



For more information, please speak with your BMO Private Wealth professional.



¹Community of life: the concept of community of life is a factual question. A list of factors from Québec case law must be considered to determine whether any two persons share a community of life, such as: cohabitation, emotional and economic support of one another, length, permanence and stability of the relationship, societal perception of the two persons as a couple, etc....Generally, when taken all together, the facts must indicate that there is a community of life. In addition, the new Act creates the following presumption: persons who cohabit and are the father and mother or the parents of the same child are presumed to share a community of life.

²By notarial act en minute or by a private writing made before two witnesses.

³By notarial act en minute.

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