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**PROJET DE PROFIL D’ÉTAT – RÉVISÉ**

**ORDONNANCES DE PROTECTION RENDUES PAR DES JURIDICTIONS NATIONALES ET ÉTRANGÈRES : LÉGISLATION, RECONNAISSANCE ET EXÉCUTION, ET AUTRES RESSOURCES**

*proposé par le Bureau Permanent*

**\* \* \***

**DRAFT COUNTRY PROFILE – REVISED**

**NATIONAL AND FOREIGN PROTECTION ORDERS: LEGISLATION, RECOGNITION AND ENFORCEMENT AND OTHER RESOURCES**

*proposed by the Permanent Bureau*

*Document préliminaire No 4 B (révisé) de juin 2014 à l’attention*

*du Conseil d’avril 2014 sur les affaires générales et la politique de la Conférence*

*Preliminary Document No 4 B (revised) of June 2014 for the attention*

*of the Council of April 2014 on General Affairs and Policy of the Conference*

**PROJET DE PROFIL D’ÉTAT – RÉVISÉ**

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**DRAFT COUNTRY PROFILE – REVISED**

**NATIONAL AND FOREIGN PROTECTION ORDERS: LEGISLATION, RECOGNITION AND ENFORCEMENT AND OTHER RESOURCES**

*proposed by the Permanent Bureau*

**FOREWORD TO THE DRAFT COUNTRY PROFILE –**

**NATIONAL AND FOREIGN PROTECTION ORDERS: LEGISLATION, RECOGNITION AND ENFORCEMENT AND OTHER RESOURCES**

This Draft Country Profile was prepared in the light of a mandate given by the 2013 Council on General Affairs and Policy of the Hague Conference on the topic of “Recognition and enforcement of foreign civil protection orders”:

“The Council welcomed the work carried out by the Permanent Bureau and invited it to continue exploratory work, including further comparative research (such as a country profile) and investigation on the feasibility of a future instrument. The Permanent Bureau may, resources allowing, convene an Experts’ Group to assist in carrying out this work.”[[1]](#footnote-1)

Country Profiles have been developed under a number of Hague Conventions.[[2]](#footnote-2) However, the Country Profiles have in general been elaborated subsequent to the adoption or entry into force of a particular instrument. Contracting States, national authorities and others who are involved in the operation of Hague Conventions have found the Country Profile to be an invaluable tool to facilitate access to information on foreign law and procedures, as well as to other national information in relation to a specific Convention, with the goal of facilitating the effective operation of the instrument.

The objectives of this Draft Country Profile are two-fold. Firstly, if completed by individual States or jurisdictions, it will provide a comparative overview of this area of the law. The information sought on domestic law in the Draft Country Profile is based on responses received from Members of the Hague Conference to a 2012 Questionnaire on civil protection orders.[[3]](#footnote-3) Secondly, the Draft Country Profile seeks to provide necessary information for States, relevant governmental authorities (*e.g.*, members of the judiciary, enforcement officials), and also to individuals / members of the public, in order to facilitate the cross-border recognition and enforcement of foreign protection orders and international co-operation in this respect. A later version of this Draft Country Profile could be used as an implementation or operational tool in the context of either a binding or a non-binding international instrument or mechanisms on the subject of protection orders.

The initial version of the Draft Country Profile was produced as a discussion document for the attention of the meeting of the Experts’ Group on Recognition and Enforcement of Foreign Civil Protection Orders (12-13 February 2014). Specific sections of the Draft Country Profile were referred to in the agenda of the meeting in order to facilitate discussion among the experts.

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| **Identification** | |
| Name of State (or territorial unit, where applicable): | CANADA - Province of Quebec |
| **Information for follow-up purposes** | |
| Name and title of contact person: | Frédérique Sabourin, lawyer |
| Name of Authority / Office: | Ministère de la Justice du Québec, Direction des orientations et politiques |
| Telephone number: | + 418-646-5580 ext. 20865 |
| E-mail address: | frederique.sabourin@justice.gouv.qc.ca |

DRAFT COUNTRY PROFILE – national and FOREIGN PROTECTION ORDERS: legislation, recognition and enforcement and other resources

**PART I: CENTRAL AUTHORITIES[[4]](#footnote-4)**

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| --- |
| 1. CENTRAL AUTHORITY contact details |
| a. Organisation:  b. Address:  c. Territorial or personal extent of functions, if applicable:  d. Telephone:  e. Fax:  f. E-mail:  g. Website:  h. Contact person(s):  i. Language(s): |

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| 2. OTHER cENTRAL AUTHORITY (IF APPLICABLE) |
| Please attach additional pages if there are more than two designated Central Authorities in your State  a. Organisation:  b. Address:  c. Territorial or personal extent of functions, if applicable:  d Telephone:  e. Fax:  f. E-mail:  g. Website:  h. Contact person(s):  i. Language(s): |

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| 3. LANGUAGE REQUIREMENTS | |
| 1. Does your State / jurisdiction require that any application and related documents submitted be accompanied by a translation? If so, in what language? | * Yes * Into official language of your State / jurisdiction. Please specify: * Into another language. Please specify: * No |

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| 1. If your State / jurisdiction has more than one official language in its territory and cannot, for reasons of internal law, accept for the whole of your State / jurisdiction documents in one of those languages, please specify the language in which documents or translations shall be drawn up for submission in the specified parts of its territory. |  |

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| 4. central AUTHORITY OPERATION | |
| Please provide answers for each Central Authority if there is more than one designated in your State (attach additional pages) | |
| 1. What are the working days and hours of the Central Authority? | Days of the week open:  Opening time:  Closing time:  Shutdown periods (*e.g.,* public holidays, court closures): |
| 1. Can the Central Authority be accessed outside of working hours in case of emergency? | * Yes   Please specify contact details, if different from above:   * No |

**PART II: ENFORCEMENT[[5]](#footnote-5) OF NATIONAL PROTECTION ORDERS RENDERED BY JUDICIAL, ADMINISTRATIVE OR OTHER COMPETENT AUTHORITIES**

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| 1. COMPETENT ENFORCEMENT AUTHORITIES |
| 1.1. contact details of COMPETENT AUTHORITY that is responsible for the enforcement of NATIONAL protection orders |
| Police officers |
| Bailiffs |
| Administrative Authority |
| Other. |
| Please specify: Anyone is guilty of contempt of court who disobeys any process or order of the court (art. 50 of the Code of Civil Procedure, CQLR, chapter C-25 (C.P.C.). An arrest warrant issued by a court for non-enforcement of a protection order may be executed anywhere in Quebec by a peace officer (i.e. a police officer) or a baliff (articles 353 of the Code of Penal Procedure, CQLR, chapter C-25.1 and 54 of the C.C.P.).  Also, under the Youth Protection Act, CQLR, chapter P-34.1 (Y.P.A.), a justice of the peace may authorize in writing the director of youth protection and members of his staff, a person authorized by the director of youth protection or any peace officer to search for a child and bring him before the director (s. 35.2 Y.P.A.). Moreover, where the tribunal orders the compulsory foster care of a child, it shall require the director [of youth protection] to designate an institution, to which the child may be entrusted, that operates a hospital centre or a rehabilitation centre or works in conjunction with foster families, and to see that foster care is provided under adequate conditions. Every institution operating a rehabilitation centre or a hospital centre designated by the director . . . is bound to admit the child contemplated by the order. Such order may be executed by any peace officer (s. 62 Y.P.A.). |
| a. Organisation: - enter text here - |
| b. Address: |
| c. Territorial or personal extent of functions, if applicable: |
| d. Telephone: |
| e. Fax: |
| f. E-mail: |
| g. Website: |
| h. Contact person(s): |
| i. Language(s): |

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| 1.2. contact details of OTHER competent AUTHORITY that is responsible for the enforcement of NATIONAL protection orders (IF APPLICABLE) |
| Please attach additional pages if there are more than two Competent Enforcement Authorities in your State / jurisdiction  Police officers |
| Bailiffs |
| Administrative Authority |
| Other |
| Please specify: See response to question 1.1. |
| a. Organisation: - enter text here - |
| b. Address: |
| c. Territorial or personal extent of functions, if applicable: |
| d Telephone: |
| e. Fax: |
| f. E-mail: |
| g. Website: |
| h Contact person(s): |
| i. Language(s): |

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| 1.3. competent ENFORCEMENT AUTHORITIES OPERATION | |
| Please provide answers for each Competent Enforcement Authority if there is more than one in your State / jurisdiction (attach additional pages) | |
| a. What are the working days and hours of the Competent Enforcement Authority? | Days of the week open:  Opening time:  Closing time:  Shutdown periods (*e.g.,* public holidays, court closures): |
| b. Can the authority be accessed outside of working hours in case of emergency? | * Yes   Please specify contact details, if different from above:   * No |

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| 1.4. organisations / bodies PROVIDING ASSISTANCE TO APPLICANT | |
| Are there other organisations / bodies that will help the intended protected person with enforcement of a protection order?  (Please also see Annex I) | * Yes. Please specify, with full contact details: * No |

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| **2. DOMESTIC PROTECTION ORDER CONDITIONS OF ENFORCEMENT** | |
| 2.1. Can domestic protection orders be enforced on the simple presentation of the protection order to the enforcement officer? | Yes, the protection order itself (*i.e.*, the decision establishing the protection order) |
| Comments: |
| No |
| Please specify how enforcement takes place: - The enforcement of a protection order in civil and family matters is voluntary; however, if a party does not comply with an order, the other party may make a motion for contempt of court. A party found guilty of contempt of court is liable to a fine or even imprisonment. Peace officers (i.e. police officers) or baliffs may enforce contempt orders.  - The recognizance to keep the peace in sections 810, 810.01, 810.1 and 810.2 of the Criminal Code, R.S.C. 1985, c. C-46, is also enforced voluntarily, but anyone who fails or refuses to enter into a recognizance or who breaches such a recognizance is liable to a term of imprisonment that may be enforced by a peace officer anywhere in Canada.  However, some orders made in matters of youth protection may be executed on simple presentation were a justice of the peace authorizes in writing a peace officer to search for a child and bring him before the director (s. 35 Y.P.A.) or the court orders the compulsory placement of a child in an institution operating a rehabilitation centre or a hospital center, designated by the director, and that the order is executed by a peace officer (s. 62 Y.P.A.). |
| 2.2. What kinds of penalties are applicable for breach of protection orders in your State / jurisdiction? (Please check all which apply and specify whether considered civil, criminal or other type of sanction) | Arrest (and detention / imprisonment) |
| Please specify: Where an individual has been found guilty of contempt of court (art. 51 C.C.P.) or fails or refuses to enter into a recognizance or breaches a recognizance under sections 810, 810.01, 810.1 or 810.2 of the Criminal Code. |
| Pecuniary measures |
| Please specify: Where an individual has been found guilty of contempt of court (art. 51 C.C.P.). |
| Other |
| Please specify: In both cases, these are criminal sanctions. |
| 2.3. Do enforcement officers have liability protection for good faith actions or omissions taken in furtherance of enforcement of protection orders? | Yes |
| Please specify: The answer is no. For there to be liability, there must be fault; if the action or omission was made in good faith, it is difficult to imagine a case where there would be fault . . . .  However, baliffs are not exempt from liability. Every baliff must provide security against his liability by reason of fault or negligence committed in the exercise of his profession by participating in the contract of the group professional liability insurance plan entered into by the Chambre des huissiers de justice du Québec (Règlement sur l'assurance de la responsabilité professionnelle de la Chambre des huissiers de justice du Québec, RLRQ, chapter H-4.1, r. 2). Also, under the Y.P.A., a justice of the peace may authorize in writing the director of youth protection and members of his staff, a person authorized by the director of youth protection or any peace officer to search for a child and bring him before the director (s. 35.2 Y.P.A.). These persons, like all persons, are responsible for injury caused to another by their fault (art. 1457 of the Civil Code (C.C.Q.). The same is true for police officers. However, courts and judges enjoy immunity under the Magistrate's Privileges Act, CQLR, chapter P-24, and the Canadian Constitution. |
| No |
| 2.4. Does your State / jurisdiction utilise national, regional or local registers or electronic database(s) which register enforceable protection orders for the benefit of law enforcement officials or other authorities? | Yes |
| Please specify: The civil, criminal and youth plumitifs, based on the type of order in question, refer to protection orders that have been issued. In addition, orders made in Quebec under sections 810 et seq. are placed in the Centre de renseignements policiers du Québec (CRPQ) file and in the Canadian Police Information Centre (CIPC) when the information required for registration is provided in the order. |
| No |
| 2.5 Are security bracelets, GPS tracking devices or other technology used to assist with the enforcement of protection orders? | Yes |
| Please specify: - Sections 810.1 and 810.2 of the Criminal Code specifically provide that a person may undertake to wear an electronic monitoring device. However, it appears that this provision is not used.- |
| No |

**PART III: ENFORCEMENT OF FOREIGN PROTECTION ORDERS RENDERED BY JUDICIAL, ADMINISTRATIVE OR OTHER COMPETENT AUTHORITIES**

**The responses to questions in Section 1 are the same as for Part II, Section 1 (if so, please go to Part III, Section 2)**

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| 1. COMPETENT Enforcement AUTHORITIES |
| 1.1. contact details of COMPETENT AUTHORITY that is responsible for the enforcement of FOREIGN protection orders |
| Police officers |
| Bailiffs |
| Administrative Authority |
| Other |
| Please specify: See response to question 1.1. - Part II. |
| a. Organisation: - enter text here - |
| b. Address: |
| c. Territorial or personal extent of functions, if applicable: |
| d. Telephone: |
| e. Fax: |
| g. Website: |
| h. Contact person(s): |
| i. Language(s): |

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| 1.2. contact details of OTHER competent AUTHORITY that is responsible for the enforcement of FOREIGN protection orders (IF APPLICABLE) |
| Please attach additional pages if there are more than two Competent Enforcement Authorities in your State / jurisdiction |
| Police officers |
| Bailiffs |
| Administrative Authority |
| Other |
| Please specify: see response to question 1.1 - Part II |
| a. Organisation: - enter text here - |
| b. Address: |
| c. Territorial or personal extent of functions, if applicable: |
| d. Telephone: |
| e. Fax: |
| g. Website: |
| h. Contact person(s): |
| i. Language(s): |

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| 1.3 competent ENFORCEMENT AUTHORITIES OPERATION | |
| Please provide answers for each Competent Enforcement Authority if there is more than one designated in your State / jurisdiction (attach additional pages) | |
| a. What are the working days and hours of the Competent Enforcement Authority? | Days of the week open:  Opening time:  Closing time:  Shutdown periods (*e.g.,* public holidays, court closures): |
| b. Can the authority be accessed outside of working hours in case of emergency? | * Yes   Please specify contact details, if different from above:   * No |

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| 1.4. organisations / bodies PROVIDING ASSISTANCE TO APPLICANT | |
| Are there other organisations / bodies that will help the intended protected person with enforcement of a protection order?  (Please also see Annex I) | * Yes. Please specify, with full contact details: * No |

**The responses to the questions in Section 2 are the same as for Part II, Section 2 (if so, please go to Part IV)**

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| **2. FOREIGN PROTECTION ORDER CONDITIONS OF ENFORCEMENT** | |
| 2.1. Can foreign protection orders be enforced on the simple presentation of the foreign protection order or the standard enforcement certificate published by the Hague Conference to the enforcement officer? Please specify whether prior registration of the foreign order is required. | 🞎 Yes, the standard Enforcement Certificate published by the Hague Conference |
| Yes, the foreign protection order itself (*i.e.*, the decision establishing the protection order) |
| Comments: - enter text here - |
| No |
| Please specify how enforcement takes place:The application for enforcement of an order rendered outside Quebec is made by way of a motion to institute proceedings (art. 785 C.C.P.) |
| 2.2. What kinds of penalties are applicable for breach of foreign protection orders in your State / jurisdiction? (Please check all which apply and specify whether considered civil, criminal or other type of sanction). | Arrest (and detention / imprisonment) |
| Please specify: See answer to question 2.2.- Part II |
| Pecuniary measures |
| Please specify: See answer to question 2.2 - Part II |
| Other |
| Please specify: - enter text here - |
| 2.3. Do enforcement officers have liability protection for good faith actions or omissions taken in furtherance of enforcement of foreign protection orders? | Yes |
| Please specify: See answer to question 2.3 - Part II |
| No |

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| 2.4. Does your State / jurisdiction utilise national, regional or local registries or electronic database(s) which register enforceable foreign protection orders for the benefit of law enforcement officials or other authorities? | Yes |
| Please specify: - enter text here - |
| No |
| 2.5 Are security bracelets, GPS tracking devices or other technology used to assist with the enforcement of foreign protection orders? | Yes |
| Please specify: - enter text here - |
| No |

**PART IV: RECOGNITION AND DECLARATION OF ENFORCEABILITY OR REGISTRATION FOR ENFORCEMENT OF FOREIGN PROTECTION ORDERS**

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| 1. relevant legislation | |
| Does your State / jurisdiction currently have laws (including rules of private international law) by which protection orders from foreign States are recognised and declared enforceable or registered for enforcement in your jurisdiction? | Yes |
| Please describe: A decision rendered outside Québec is recognized and, where applicable, declared enforceable by the Québec authority, except in the following cases:  (1) the authority of the State where the decision was rendered had no jurisdiction under the provisions of this Title;  (2) the decision, at the place where it was rendered, is subject to an ordinary remedy or is not final or enforceable;  (3) the decision was rendered in contravention of the fundamental principles of procedure;  (4) a dispute between the same parties, based on the same facts and having the same object has given rise to a decision rendered in Québec, whether or not it has acquired the authority of a final judgment (res judicata), is pending before a Québec authority, in first instance, or has been decided in a third State and the decision meets the conditions necessary for it to be recognized in Québec;  (5) the outcome of a foreign decision is manifestly inconsistent with public order as understood in international relations;  (article 3155 Quebec Civil Code) |
| Please list relevant Internet weblink(s), if available: http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=2&file=/CCQ\_1991/CCQ1991\_A.html |
| Please comment on special features, if any, found in these laws which seek to quickly protect persons at-risk in cross-border settings:   The recourse to the courts garantees the respect of the fundamental rights of the persons targetted by the order. |
| No (if not, continue to Part IV, Section 7) |

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| 2. COMPETENT AUTHORITIES |
| 2.1. contact details of COMPETENT AUTHORITY that is responsible for recognition and DECLARATION OF ENFORCEABILITY OR REGISTRATION FOR enforcement of foreign protection orders |
| Judicial Authority  Administrative Authority  Other Authority  a. Organisation: - enter text here -  b. Address:  c. Territorial or personal extent of functions, if applicable:  d. Telephone:  e. Fax:  f. E-mail:  g. Website:  h. Contact person(s):  i. Language(s): |

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| 2.2. contact details of OTHER competent AUTHORITY that is responsible for recognition and DECLARATION OF ENFORCEABILITY OR REGISTRATION FOR enforcement of foreign protection orders (IF APPLICABLE) |
| Please attach additional pages if there is more than one designated Competent Authority in your State / jurisdiction |
| Judicial Authority |
| Administrative Authority |
| Other Authority |
| a. Organisation: - enter text here - |
| b. Address: |
| c. Territorial or personal extent of functions, if applicable: |
| d Telephone: |
| e. Fax: |
| f. E-mail: |
| g. Website: |
| h. Contact person(s): |
| i. Language(s): |

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| 2.3. LANGUAGE REQUIREMENTS for applications to competent authorities | |
| Please provide answers for each Competent Authority if there is more than one designated in your State / jurisdiction (attach additional pages) | |
| 1. Does your State / jurisdiction require that a foreign application and related documents for recognition and declaration of enforceability or registration for enforcement be accompanied by a translation? If so, in what language? | * Yes   + Into official language of your State / jurisdiction. Please specify:   + Into another language. Please specify: * No |
| 1. If your State / jurisdiction has more than one official language in its territory and cannot, for reasons of internal law, accept for the whole of your State / jurisdiction documents in one of those languages, please specify the language in which documents or translations shall be drawn up for submission in the specified parts of its territory. |  |

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| 2.4. cOmpetent AUTHORITIES OPERATION | |
| Please provide answers for each Competent Authority if there is more than one designated in your State / jurisdiction (attach additional pages) | |
| 1. What are the working days and hours of the Competent Authority? | Days of the week open:  Opening time:  Closing time:  Shutdown periods (*e.g.,* public holidays, court closures): |
| 1. Can the authority be accessed outside of working hours in case of emergency? | 🞏 Yes  Please specify contact details, if different from above:   * No |
| 2.5. organisations / bodies PROVIDING ASSISTANCE TO APPLICANT | |
| Are there other organisations / bodies that will help with an application for the recognition and enforcement of a foreign protection order?  (Please also see Annex I) | * Yes. Please specify, with full contact details: * No |

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| **3.** **NECESSARY INFORMATION FOR APPLICATIONS FOR RECOGNITION AND DECLARATION OF ENFORCEABILITY OR REGISTRATION FOR ENFORCEMENT OF FOREIGN PROTECTION ORDERS** | |
| 3.1. What information is required to be included in an application for recognition and declaration of enforceability or registration for enforcement of a foreign protection order? (Please check all which apply) | About the protected person (applicant):   * Full name * Date and / or place of birth * Personal identification number (such as social security or passport number) * Mailing address * Telephone, e-mail and other contact details * Nationality / nationalities * Other. Please specify:   About the person causing the risk (respondent):   * Full name * Date and / or place of birth * Personal identification number (such as social security or passport number) * Mailing address * Telephone, e-mail and other contact details * Nationality / nationalities * Other. Please specify:   About the issuing Authority:   * Name * Mailing address * Telephone, e-mail and other contact details * Internal reference number of the case * Other. Please specify:   About the protection order:   * Information on the types of the measures included in the protection order * Date of effect of the protection order * Duration of the protection order * Names of the parties to the protection order * Renewability of the protection order * Other. Please specify:   Other information:  Please specify: |
| 3.2. What documents are required for recognition and declaration of enforceability or registration for enforcement of a foreign protection order? (please check all which apply) | A complete text of the order |
| A complete copy of the order certified by the competent authority in the State of origin |
| An abstract or extract of the order drawn up by the competent authority of the State of origin, in lieu of the complete text of order |
| A document stating that the decision is enforceable in the State of origin |
| If the protection order was rendered in default of appearance in the State of origin, a document or documents attesting, as appropriate, either that the respondent had proper notice of the proceedings and an opportunity to be heard, or that the respondent had proper notice of the decision and the opportunity to challenge or to appeal it on fact and law |
| Any other relevant document |
| Please specify: Documents in a language other than French or English must be accompanied with a translation authenticated in Québec (article 786 Code of civil procedure) |
| 3.3. Does your State / jurisdiction have a prescribed or preferred form for an application to recognise and enforce a protection order? | * Yes, the standard form published by the Hague Conference |
| Yes |
| Please attach a copy of the form or provide a website link or both:   - enter text here - |
| No |
| 3.4. Can your State / jurisdiction accept an application and related documents transmitted by electronic means? | Yes |
| Please specify: - In civil and family matters, the new Code of Civil Procedure, which should come into force in the fall of 2015, provides in section 26: "In applying this Code, appropriate technological means that are available to both the parties and the court should be used whenever possible, taking into account the technological environment in place to support the business of the courts.  The court, even on its own initiative, may use such means or order that such means be used by the parties, including for case management purposes; if it considers it necessary, the court may also, despite an agreement between the parties, require a person to appear in person at a hearing, a conference or an examination."  In youth protection matters, the tribunal may use any technological means at its disposal to hear and decide applications for the extension of immediate protection orders and provisional orders while proceedings are in progress (s.47, 74.0.1., 76.1 Y.P.A.) |
| No |
| 3.5. What is the average expected time from the submission of the application to the finalisation of the recognition and declaration of enforceability or registration for enforcement procedure (excluding appeals)? | Within 24 hours |
| Within 2 to 3 days |
| Up to 1 week |
| 1 to 4 weeks |
| 4 to 6 weeks |
| Other |
| Please specify: - The average time is more than six weeks unless there is an urgency, in which case it is possible to shorten the time limits (art. 78, 88, 113, 151.4, 280, 496.1, 547, 576, 813.5 C.C.P.). The judgment must be rendered within six months after the case is taken under advisement (art. 465 C.C.P.). |
| 3.6. Can the merits of the protection order be reviewed in recognition and declaration of enforceability or registration for enforcement procedures? | Yes |
| Please specify: article 3158 Québec Civil Code |
| No |
| 3.7. Is recognition and declaration of enforceability or registration for enforcement of a severable part of a foreign protection order possible in your State / jurisdiction? | Yes |
| Please specify: article 3159 Québec Civil Code |
| No |

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| **4. eligible APPLICANTs for recognition and enforcement** | |
| Who can apply for the recognition and enforcement of a foreign protection order? (check all which apply) | The intended protected person |
| A representative or advocate of the intended protected person. |
| Please specify any criteria:   - enter text here - |
| Any interested party |
| Other |
| Please specify: - enter text here - |

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| **5. TYPES AND FEATURES OF PROTECTION ORDERS WHICH MAY BE RECOGNISED AND ENFORCED IN YOUR STATE / JURISDICTION** | |
| * 1. Foreign protection orders addressing what types of behaviours can be recognised and enforced in your State / jurisdiction? (please check all which apply) | Contacting or communicating with the protected person |
| in person |
| by way of a third party |
| by mail |
| by e-mail |
| by phone |
| by other means. |
| Please specify: Internet, fax, texts (SMS), social networks, etc. |
| Approaching or being in physical proximity to the protected person |
| Distance requirement? depending on the court's appreciation of the situation |
| General harassment of the protected person |
| Molestation / annoyance of the protected person |
| Staying away from a certain place |
| Please describe: depending on the court's appreciation of the situation |
| Forwarding or disseminating personal data or photos of the protected person |
| Possession of weapons |
| Behaviours at the discretion of the judge or other competent authority in an individual case |
| Encouraging others to engage in behaviour against the protected person where, if the behaviour was undertaken by the respondent, would be prohibited by a protection order |
| Other specific behaviours |
| Please specify: - enter text here - |
| * 1. Protection orders for the benefit of what categories of protected persons can be recognised and enforced in your State / jurisdiction? (please check all which apply) | Married persons |
| Formerly married persons |
| Divorcing persons |
| Women only |
| Unmarried couples |
| Family members |
| Roommates / housemates |
| Children of the intended protected person |
| Other relatives of the intended protected person |
| Persons who are not in any kind of intimate or cohabitation relationship |
| Other individuals |
| Please specify: - enter text here - |
| * 1. Against whom can foreign protection orders be recognised and enforced in your State / jurisdiction? (please check all which apply) | An individual perpetrator or potential perpetrator |
| Family members of the principal perpetrator or potential perpetrator |
| Other individuals |
| Please specify: - enter text here - |

|  |  |
| --- | --- |
| * 1. Can supplementary matters included in a foreign protection order, which may or may not be directly related to the immediate safety of the protected person, also be recognised and enforced in your State / jurisdiction? | Yes: |
| Temporary maintenance orders |
| Temporary child custody orders |
| Protection of property |
| Mandatory counselling |
| Monetary reimbursement of damages to the protected person |
| Seizure of property of the respondent |
| Other |
| Please specify: - If the foreign order meets the conditions in articles 3155 C.C.Q. et seq., it may be recognized and enforced; otherwise, it is possible for the Quebec judicial authorities to render an order that completes the foreign order (see answer to questions 1 and 6 of Part IV and the answers to the questions in Part V. |
| No |
| * 1. Foreign protection orders of what duration can be recognised and enforced in your State / jurisdiction? (please check all which apply) | Orders which have a minimum duration |
| Please specify: Subject to the court's appreciation |
| Orders which have a maximum duration |
| Please specify: subject to the court's appreciation |
| Orders which are of a fixed duration |
| Please specify: subject to the court's appreciation |
| Orders which are of a duration according to judicial / other instituting authority’s discretion |
| Orders which are renewable |
| Please describe: subject to the court's appreciation |
| Orders which are not renewable |
| Please describe: subject to the court's appreciation |
| Lifetime or indefinite orders |
| * 1. Does your State / jurisdiction recognise and enforce foreign protection orders considered to be of an interim or emergency nature (in contrast to more permanent orders)? | Yes |
| Please describe any specific treatment of these types of orders: article 3155 (2) Quebec Civil Code |
| No |

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| 6. grounds for refusal of recognition AND DECLARATION OF ENFORCEABILITY OR REGISTRATION FOR ENFORCEMENT of a foreign protection order | |
| What are the grounds for refusal of recognition and declaration of enforceability or registration for enforcement of a foreign protection order? (please check all which apply) | Review of jurisdictional grounds of issuing competent authority |
| Please specify: Article 3155 Quebec Civil Code |
| The recognition and / or enforcement is manifestly incompatible with the public policy (“*ordre public*”) of your State / jurisdiction |
| The protection order was obtained by fraud in connection with a matter of procedure |
| Proceedings between the same parties and having the same purpose are pending before an authority of your State / jurisdiction and those proceedings were the first to be instituted |
| The protection order is incompatible with an order rendered between the same parties and having the same purpose, either in your State / jurisdiction or in another State, and this latter order fulfils the conditions necessary for recognition and declaration of enforceability or registration for enforcement in your State / jurisdiction |
| In a case where the protection order was rendered in default of appearance in the State of origin, the respondent had neither proper notice of the proceedings and an opportunity to be heard, nor proper notice of the order and the opportunity to challenge or appeal it on fact and law |
| Other |
| Please specify: article 3156 Quebec Civil Code |

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| 7. PROTECTION ORDERS IN THE CONTEXT OF THE 1980 CHILD ABDUCTION CONVENTION AND THE 1996 CHILD PROTECTION CONVENTION | |
| 7.1. Is your State is a Party to the 1980 Child Abduction Convention?  *(Convention of 25 October 1980 on the Civil Aspects of International Child Abduction)* | Yes |
| No |
| 7.2. If your State is a Party to the 1980 Child Abduction Convention, please indicate the mechanisms that are used in your State / jurisdiction to recognise and enforce a protection order made in a foreign State to protect an accompanying parent upon the return of a child under the 1980 Child Abduction Convention(please check all which apply). | Mirror orders |
| Voluntary undertakings |
| Recognition and enforcement of foreign protection orders under another international instrument |
| Please specify: - enter text here - |
| Recognition and enforcement of foreign protection orders under domestic law (including rules of private international law) |
| Please specify: art. 3155 et seq. Quebec Civil Code |
| Other |
| Please specify: See : Droit de la famille-14610, 2014 QCCS 3144 à http://www.canlii.org/fr/qc/qccs/doc/2014/2014qccs3144/2014qccs3144.html. |

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| 7.3. If your State is also a Party to the 1996 Child Protection Convention *(Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children),* are provisions of this Convention (*e.g.*, Art. 11 relating to necessary measures of protection in cases of urgency) utilised in order to protect an accompanying parent when a return order of a child is issued under the 1980 Child Abduction Convention by a competent authority in your State / jurisdiction? | Yes |
| Please specify: - enter text here - |
| No |

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| 8. BILATERAL, REGIONAL AND INTERNATIONAL INSTRUMENTS | |
| 8.1. Please list any additional bilateral, regional, and international instruments or co-operation mechanisms that currently or will in the future bind your State or jurisdiction, which cover the recognition and enforcement of foreign protection orders (in addition to legislation listed in Part IV, Section 1): | - enter text here - |
| 8.2. Please comment on special features, if any, found in these instruments or co-operation mechanisms which seek to quickly protect persons at risk in cross-border settings: | - enter text here - |

part V: protection order regimes / types of orders available in your State / jurisdiction and applicationS for establishment of National protection orders

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| 1. Relevant legislation on NATIONAL protection orders | |
| * 1. Does your State / jurisdiction currently have protection order regime(s) in force?   (Please attach additional pages if there is more than one type of protection order available in your State / jurisdiction) | No |
| Yes |
| Pleaseprovide a reference to the protection order regime, with the date and title of legislation(s) or a reference to relevant case law: (1) Court orders in civil and family matters, including orders to safeguard the rights of the parties, provisional and accessory orders and all protection orders that the court considers appropriate (article 813 C.C.P.). The court (translation) "has the power to make any order to ensure the safety of persons and to prohibit what a law, convention or case law prohibits persons from doing", Bacon c. Boucher, [1975] S.C. 1188, cited by Sénécal in CCH Droit de la famille québécois, p. 32-785. In addition, if necessary, a right of supervised access may be ordered in which case the parent may visit their child (children) at the offices of community organizations that are neutral, accessible and safe environments, either in the presence of a third party or not. The court may issue provisional, temporary or urgent measures and orders. In addition, an application for seizure before judgment (art. 740 C.C.P.) or an application concerning the obligation of support, the custody of children or provisional measures is heard and decided by preference (art. 813.9 C.C.P.), and the possibility of shortening a time limit or derogating from the normal procedure in cases of urgency is set out at art. 78, 88, 113, 151.4, 280, 496.1, 547 (second paragraph), 576, 813.5. C.C.P.  - Orders issued to deal with cases for which no specific remedy is provided by law (art. 20, 46 C.C.P.).  Under article 46 C.C.P., an order safeguarding the rights of the parties is issued for such time and on such conditions as the court or judge determines. A person who does not comply with an order may be found guilty of contempt of court (art. 49 and s. C.C.P.)  - Seizure before judgment (art. 733 and s. C.C.P.)  - Interlocutory injunction or injunction pronounced in a final judgment (art. 751 and s. C.C.P.)  Under article 760 C.C.P., an injunction pronounced in a final judgment remains in force notwithstanding appeal; an interlocutory injunction remains in force notwithstanding a final judgment dissolving it, provided that the plaintiff has instituted an appeal within 10 days.  However, a judge of the Court of Appeal may provisionally suspend an injunction.  We also mention  - that, failing provision to the contrary (such as art. 53 C.C.P. in contempt of court matters and art. 753 C.P.C. in interlocutory injunction matters), any written proceeding of a party must be served upon the attorneys of the other parties, or upon the parties themselves if they have no attorney, otherwise it cannot be regularly filed; if it contains a demand which must be presented to a judge or to the court, it must be accompanied by a notice of the date of such presentation, and the service must have been made at least one clear juridical day before such date, except in a case of urgency when the judge may allow a shorter time (art. 78 C.P.C.).  - and that, based on 813.3 C.C.P., in family matters, "Orders to safeguard the rights of the parties issued in urgent cases or where the hearing on provisional measures is deferred lapse 30 days after they are issued, unless their valid period is extended by the parties by mutual agreement or, in case of disagreement, by the court."  Otherwise, article 2924 C.C.P. provides that the right that results from a judgment is prescribed after ten years if it is not exercised.  For examples of orders in familly and civil matters, see the document attached to this questionnaire.  (2) Protection orders issued under the Youth Protection Act (CQLR, chapter P-34.1).  For examples of youth protection orders, see the document attached to this questionnaire.  (3) Orders for confinement in an institution and psychiatric assessment (art. 26 to 31 C.C.Q., art. 36.2, 778 and s. C.C.P. and An Act Respecting the Protection of Persons Whose Mental State Presents a Danger to Themselves or to Others, CQLR, chapter P-38.001).  (4) Protection orders (undertaking to keep the peace and prohibition against communicating, in particular): s. 810 et seq of the Criminal Code  (5) In labour law matters, orders of the Commission des relations du travail, the Commission de la santé et de la sécurité du travail, the Commission des lésions professionnelles, the Tribunal administratif du Québec or the Tribunal des droits de la personne, to cease harassment and to reinstate the employee, where applicable (Labour Code, CQLR, chapter C-27; Charter of Human Rights and Freedoms, CQLR, chapter C-12; Act Respecting Labour Standards, CQLR, chapter N-1.1; Act Respecting Industrial Accidents and Occupational Diseases, CQLR, chapter A-3.001, Act Respecting Administrative Justice, CQLR, chapter J-3, Act Respecting Occupational Health and Safety, CQLR, chapter S-2.1). |
| Please list any Internet weblink(s) to the legislation or case law, if available:  see annex 2 for English version |
| The protection order regime, from the perspective of your State / jurisdiction, is considered to be of the following character: - enter text here - |
| Civil |
| Administrative |
| Criminal |
| Other |
| Please specify: Orders in family matters and orders issued under the C.C.P. are civil in nature.  Youth protection orders are administrative and are issued by a tribunal that has civil jurisdiction.  Contempt of court orders are penal in nature even though they are issued by a tribunal that has civil jurisdiction.  Orders issued under sections 810 et seq. of the Criminal Code at the conclusion of a quasi-criminal proceeding ( Miller v. Miller, [1991] N.J. No. 5 (Nfld. Prov. Ct.) that have the characteristics of a civil injunction (R. v. Gill, [1991] B.C.J. No. 3255 (B.C. Prov. Ct.) and that do not result in a conviction if the defendant satisfies the requisite conditions are issued by a criminal court.  Orders in labour law matters may be civil or administrative in nature. |
| * 1. If protection order regime(s) exist in your State / jurisdiction, are modifications of the existing regime(s) contemplated? | Yes |
| Please specify: - The recent Plan d'action gouvernemental 2012-2017 en matière de violence conjugale sets out the following committment: (TRANSLATION) "78. To study the possibility of introducing legislation with respect to civil protection orders for victims of domestic violence and the recognition of such orders made elsewhere in Canada or abroad."  However, these orders cannot replace criminal charges. Charges must be laid where there are reasonable grounds to believe that an offence has been committed. |
| No |
| * 1. If there is no protection order regime in force in your State / jurisdiction, are there plans to legislate in this area in the future? | Yes |
| Please specify: - enter text here - |
| No |

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| 2. COMPETENT AUTHORITIES RESPONSIBLE FOR establishing national PROTECTION ORDERS | |
| 2.1. Which courts or authorities are competent to issue protection orders? (please check all which apply) | Family courts |
| Courts of general jurisdiction |
| Specialised domestic violence courts |
| Civil courts |
| Criminal courts |
| Administrative authorities. |
| Please specify: - Commission des relations du travail, Commission de la santé et de la sécurité du travail, Commission des lésions professionnelles, Tribunal administratif du Québec and Human Rights Tribunal |
| Police authorities |
| Other |
| Please specify: - enter text here - |
| Comments: - enter text here - |

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| **2.2 CONTACT DETAILS OF COMPETENT AUTHORITY RESPONSIBLE FOR ESTABLISHING NATIONAL** **PROTECTION ORDERS** |
| a. Organisation:  b. Address:  c. Territorial or personal extent of functions, if applicable:  d Telephone:  e. Fax:  f. E-mail:  g. Website:  h. Contact person(s):  i. Language(s): |

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| 2.3. contact details of OTHER competent AUTHORITY RESPONSIBLE FOR ESTABLISHING NATIONAL PROTECTION ORDERS (IF APPLICABLE) |
| Please attach additional pages if there is more than one designated Competent Authority in your State / jurisdiction  a. Organisation:  b. Address:  c. Territorial or personal extent of functions, if applicable:  d Telephone:  e. Fax:  f. E-mail:  g. Website:  h. Contact person(s):  i. Language(s): |

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| 2.4. organisations /bodies PROVIDING ASSISTANCE TO APPLICANT | |
| Are there organisations / bodies that will help applicants with filing applications for the establishment of a protection order?  (Please also see Annex I) | * Yes. Please specify, with full contact details: * No |

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| 2.5. LANGUAGE REQUIREMENTS FOR applications to competent authorities (ESTABLISHMENT APPLICATIONS) | |
| 🞏 The responses to questions in this Section are the same as for Part IV, Section 2.3 (if so, please go to next Section) | |
| Please provide answers for each Competent Authority if there is more than one designated in your State / jurisdiction (attach additional pages) | |
| a. What language does your State / jurisdiction require for any application and related documents for establishment of a protection order? | * Official language of your State / jurisdiction. Please Specify: * Other languages are accepted. Please specify: |
| b. If your State / jurisdiction has more than one official language in its territory and cannot, for reasons of internal law, accept for the whole of your State / jurisdiction documents in one of those languages, please specify the language in which documents or translations shall be drawn up for submission in the specified parts of its territory. |  |

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| 2.6. cOmpetent AUTHORITIES OPERATION | |
| 🞏 The responses to questions in this Section are the same as for Part IV, Section 2.4 (if so, please go to next Section) | |
| Please provide answers for each Competent Authority if there is more than one designated in your State / jurisdiction (attach additional pages) | |
| a. What are the working days and hours of the Competent Authority? | Days of the week open:  Opening time:  Closing time:  Shutdown periods (*e.g.,* public holidays, court closures): |
| b. Can the Competent Authority be accessed outside of working hours in case of emergency? | * Yes   Please specify contact details, if different from above:   * No |

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| **3. TYPES AND FEATURES OF DOMESTIC PROTECTION ORDERS** | |
| 3.1. What types of behaviours do protection orders in your State / jurisdiction obligate an individual to refrain from or to do? (please check all which apply) | Contacting or communicating with the protected person |
| in person |
| by way of a third party |
| by mail |
| by e-mail |
| by phone |
| by other means. |
| Please specify**:** Internet, fax, texts (SMS), social media, etc. |
| Approaching or being in physical proximity to the protected person |
| Distance requirement? - depending on the tribunal's assessment of the situation |
| General harassment of the protected person |
| Molestation / annoyance of the protected person |
| Staying away from a certain place |
| Please describe: - enter text here - |
| Forwarding or disseminating personal data or photos of the protected person |
| Possession of weapons |
| Behaviours at the discretion of the judge or other competent authority in an individual case |
| Encouraging others to engage in behaviour against the protected person where, if the behaviour was undertaken by the respondent, would be prohibited by a protection order |
| Other specific behaviours |
| Please specify: - enter text here - |
| 3.2. For whom are protection orders available (*i.e.*, who are the intended protected persons)? (please check all which apply) | Married persons |
| Formerly married persons |
| Divorcing persons |
| Women only |
| Unmarried couples |
| Family members |
| Roommates / housemates |
| Children of the intended protected person |
| Other relatives of the intended protected person |
| Persons who are not in any kind of intimate or cohabitation relationship |
| Other individuals |
| Please specify: - enter text here - |
| 3.3. Against whom are the protection orders available? (please check all which apply) | An individual perpetrator or potential perpetrator |
| Family members of the principal perpetrator or potential perpetrator |
| Other individuals |
| Please specify: - enter text here - |
| 3.4. Please indicate who in your State / jurisdiction is able to apply for / initiate the establishment of a protection order (please check all which apply). | The intended protected person (*i.e*. the victim or potential victim who will be protected by the order) |
| Family member(s) of the protected person |
| Please specify: - enter text here - |
| Public prosecutor |
| Police officials |
| A judge *ex officio* |
| Other public authority or official |
| Please specify: Director of Criminal and Penal Prosecutions; Director of Youth Protection; Commission des droits de la personne et des droits de la jeunesse; Commission des normes du travail |
| Other advocate for the protected person |
| Please specify: union or labour association |
| Other |
| Please specify: - enter text here - |
| 3.5. If possible, please indicate the actions or potential actions in response to which the protection orders are put in place (please check all which apply). | Domestic and family violence |
| Sexual assault |
| Dating violence |
| Stalking |
| Forced marriage |
| So-called “honour crimes” |
| Human trafficking |
| Other general criminal or harmful behaviour |
| Other behaviours / situations |
| Please specify : In addition, a criminal conviction may allow a civil court to issue a protection order |
| 3.6. Can supplementary matters, which may or may not be directly related to the immediate safety of the protected person, be included in a protection order? | Yes; |
| Temporary maintenance orders |
| Temporary child custody orders |
| Protection of property |
| Mandatory counselling |
| Monetary reimbursement of damages to the protected person |
| Seizure of property of the respondent |
| Other |
| Please specify: - enter text here - |
| No |
| 3.7. Please specify whether the protection orders (which are *not* of an interim or emergency nature) in your State / jurisdiction (please check all which apply): | Have a minimum duration |
| Please specify: - enter text here - |
| Have a maximum duration |
| Please specify: - enter text here - |
| Are of a fixed duration |
| Please specify: - enter text here - |
| Are of a duration according to judicial / other instituting authority’s discretion |
| Are renewable |
| Please describe: - enter text here - |
| Are not renewable |
| Please describe: - enter text here - |
| Lifetime or indefinite orders |
| 3.8. Generally, what is the expected time from the submission of an application to a final order (excluding appeals)? | Within 24 hours |
| Within 2 to 3 days |
| Up to 1 week |
| 1 to 4 weeks |
| 4 to 6 weeks |
| Other |
| Please specify: In civil matters, the average time is more than six months unless there is an urgency, in which case it is possible to shorten the time limits (art. 78, 88,113, 151.4, 280, 496.1, 547, 576, 813.5 C.C.P.). An application for provisional measures in family matters is heard and decided by preference (art. 813.9 C.C.P.).  A judgment must be rendered within six months after the case is taken under advisement (art. 465 C.C.P.).  In youth protection matters, a decision or order of the tribunal must be rendered as soon as possible. It may be rendered verbally if the reasons for doing so are given. With the exception of a decision relating to provisional measures, a decision or an order must be rendered in writing not later than 60 days after being pronounced, barring exceptional circumstances (s. 90 Y.P.A.).  In criminal matters, the time limits are a function of the hearing rolls. |
| 3.9. Does your State / jurisdiction offer protection orders considered to be of an interim or emergency nature (in contrast to more permanent orders)? | Yes |
| Please describe the main features of these orders, including information as to when the respondent is notified and has an opportunity to be heard and / or challenge such an order and until when these orders are effective:  Under article 753 C.C.P., in case of urgency, a provisional injunction may be ordered even before it has been served. Nothwithstanding the foregoing, in no case, except with the consent of the parties, may a provisional injunction exceed 10 days.  Under article 813.3 C.C.P., orders to safeguard the rights of the parties in family matters may be rendered in urgent cases for a period of 30 days after they are issued, unless their valid period is extended by the parties by mutual agreement or, in case of disagreement, by the court.  In child protection matters, the tribunal may, if it considers it necessary for the security or development of the child, give any order for the execution, while proceedings are in progress, of one or several of the protection measures (s. 76.1 Y.P.A.). No provisional compulsory foster care measure may exceed 30 days. However, where justified by the facts, the tribunal may order a single extension for a period of not over thirty days.(s. 79 Y.P.A.).  In addition, any report to the effect that the security or development of a child is or may be considered to be in danger must be transmitted to the director. The director must consider the report, analyze it briefly and decide whether it is to be accepted for evaluation. If the director accepts the report, he may, even before making an assessment to determine if the security or development of the child is in danger . . . take immediate protective measures to ensure the security of the child for a maximum period of 48 hours, if the circumstances warrant it (s. 45 and 46 Y.P.A.).  Under the Act Respecting the Protection of Persons Whose Mental State Presents a Danger to Themselves or to Others (CQLR, chapter P-38.001), a peace officer may, without the authorization of the court, take a person against his will to an institution operating a local community service centre equipped with the necessary facilities or a hospital centre:  (1) at the request of a member of a crisis intervention unit who considers that the mental state of the person presents a grave and immediate danger to himself or to others;  (2) at the request of the person having parental authority, the tutor to a minor or any of the persons mentioned in article 15 of the Civil Code, where no member of a crisis intervention unit is available in due time to assess the situation. In such a case, the peace officer must have good reason to believe that the mental state of the person concerned presents a grave and immediate danger to himself or to others.  In addition, a physician practising in such an institution may, notwithstanding the absence of consent, place a person under preventive confinement for not more than 72 hours in a facility maintained by the institution, without the authorization of the court and prior to psychiatric examination, if he is of the opinion that the mental state of the person presents a grave and immediate danger to himself or to others.  On the expiry of the 72 hour period, the person must be released, unless a court has ordered an extension of the confinement for psychiatric assessment. However, if the seventy-two hour period ends on a Saturday or on a non-juridical day, if no judge having jurisdiction in the matter is able to act and if termination of confinement presents a danger, the confinement may be extended until the expiry of the next juridical day. |
| No |

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| 4. Availability of protection orders for visitors to your State / jurisdiction | |
| Can an individual in need of protection while temporarily visiting your State / jurisdiction obtain a protection order in your State / jurisdiction for the duration of his / her visit? | Yes |
| Please specify: See responses to questions 5 et seq. |
| No |
| Comments: - enter text here - |

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| 5. Jurisdictional Grounds and law applicable to protection orders in your State / jurisdiction | |
| 5.1. Please specify the grounds upon which domestic competent authorities may assume jurisdiction for the establishment of protection orders (check all which apply). | Physical presence in the State / jurisdiction of the person seeking protection |
| Future physical presence in the State / jurisdiction of the person seeking protection |
| Physical presence of the defendant in the State / jurisdiction |
| Other |
| Please specify: - enter text here - |
| Comments: see articles 3136, 3138 and 3140 Quebec Civil Code |
| 5.2. Please specify what law will be applicable to the establishment of a protection order in your State / jurisdiction. | Law of the forum |
| Other law |
| Please specify, indicating relevant conflict of law rules: articles 3084 and 3132 Quebec Civil Code |

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| 6. necessary information for appLICATIONs FOR establishment of NATIONAL protection orders | |
| 6.1. Does your State / jurisdiction have a prescribed or preferred form for an application to establish a protection order? | * Yes, standard form for establishment published by the Hague Conference |
| Yes |
| Please attach a copy of the form or provide a website link or both:   - enter text here - |
| No |
| 6.2. What information is required to be included in an application to establish a protection order? | About the applicant:  🞎 Full name   * Date and / or place of birth * Personal identification number (such as social security or passport number) * Mailing address * Telephone, e-mail and other contact details * Nationality / nationalities * Other. Please specify:   About the respondent:   * Full name * Date and / or place of birth * Personal identification number (such as social security or passport number) * Mailing address * Telephone, e-mail and other contact details * Nationality / nationalities * Other. Please specify:   Other information:  Please specify: |
| 6.3. What documents are required for an application to establish a protection order? Please specify. | a motion to institute proceedings |
| 6.4. Can your State / jurisdiction accept an application and related documents transmitted by electronic means? | Yes |
| Please specify: In civil and family matters, the new Code of Civil Procedure, which should come into force in the fall of 2015, provides as follows in article 26: "In applying this Code, appropriate technological means that are available to both the parties and the court should be used whenever possible, taking into account the technological environment in place to support the business of the courts.  The court, even on its own initiative, may use such means or order that such means be used by the parties, including for case management purposes; if it considers it necessary, the court may also, despite an agreement between the parties, require a person to appear in person at a hearing, a conference or an examination."  In youth protection matters, the tribunal may use any technological means at its disposal to hear and decide applications for extensions of immediate protection orders and provisional orders while proceedings are in progress (s. 47, 74.0.1., 76.1 Y.P.A.) |
| No |

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| 7. APPLICATIONS TO MODIFY protection orders | |
| 7.1. In addition to application contents specified in Section 6.2, what information is required in order to process an application to modify a protection order established in your State / jurisdiction? | About the applicant:  Please specify:  About the respondent:  Please specify: |
| 7.2. What documents are required for an application to modify a protection order established in your State / jurisdiction? (please check all which apply) | Complete text of the existing protection order |
| Other / additional documents |
| Please specify: Motion |
| 7.3. On what grounds can an application be filed for modification of a protection order established in your State / jurisdiction? (please check all which apply) | Changed circumstances of the protected person so as to justify the modification |
| Changed circumstances of the person causing the risk so as to justify the modification |
| Other |
| Please specify: - enter text here - |

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| --- | --- |
| 7.4. Does your State / jurisdiction have a prescribed or preferred form for an application to modify a protection order made in your State? | * Yes, standard form for modification published by the Hague Conference |
| Yes |
| Please attach a copy of the form or provide a website link or both:   - enter text here - |
| No |
| 7.5. Can your State / jurisdiction accept an application and related documents transmitted by electronic means? | Yes |
| No |

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| 8. RESPONDENT’S RIGHTS | |
| Please answer questions in this section for the protection order regimes in your State / jurisdiction which are not considered to be of an interim or emergency nature (covered in Section 3.9., above) | |
| 8.1 Does the respondent have an opportunity to be heard in proceedings for protection orders in your State / jurisdiction? | Yes, always |
| It depends upon the particular case and is at the discretion of the judge / authority hearing the case |
| Please specify: - enter text here - |
| Other |
| Please specify: in an urgent situation, an order may be issued ex parte |
| 8.2 Is the respondent given notice when a protection order is rendered or modified? | Yes |
| No |
| Comments: - enter text here - |
| * 1. Please describe any other important features of respondent rights. | - enter text here - |

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| **9. APPLICANT’S RIGHTS AND SUPPLEMENTARY SERVICES** | |
| 9.1. Does the intended protected person have an opportunity to be heard in proceedings for protection orders in your State / jurisdiction? | Yes, always |
| It depends upon the particular case and is at the discretion of the judge / authority hearing the case |
| Please specify: - enter text here - |
| Other |
| Please specify: - enter text here - |
| 9.2. Is the protected person or his / her representative given notice when a protection order is rendered or modified? | Yes |
| No |
| Comments: - enter text here - |

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| 9.3. Are there any support services available in your State / jurisdiction for victims of domestic violence or other crimes / behaviours (*e.g.*, such as those described in Section 3.5., above)? | Yes. Please complete Annex I describing services and providing contact details. |
| No |
| If existent, are these services also available for non-nationals or non-residents of your State / jurisdiction? (*i.e.*, are they also available to foreigners?) | Yes |
| No |
| Comments: - The crime must have been committed in Quebec in order for the Centres d'aide aux victimes d'acte criminel (CAVAC) to intervene. Shelters are open to non-citizens and non-residents regardless of whether the crime they experienced took place in Quebec or elsewhere. |

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| 10. BILATERAL, REGIONAL AND INTERNATIONAL INSTRUMENTS generally addressing protection orders[[6]](#footnote-6) | |
| 10.1. Please list any bilateral, regional, and international instruments or co-operation mechanisms that currently or will in the future bind your State or jurisdiction, which address protection orders generally: | - enter text here - |
| 10.2. Please provide relevant Internet weblink(s), if available: | - enter text here - |
| 10.3. Please comment on special features, if any, found in these instruments or co-operation mechanisms which seek to quickly protect persons at risk in cross-border settings: | - enter text here - |

part VI: other general information on NATIONAL protection orderS and recognition and enforcement of FOREIGN protection orderS

|  |  |
| --- | --- |
| 1. Legal representation and assistance | |
| * 1. Is legal representation required in proceedings concerning national protection orders or for the recognition and enforcement of a foreign protection order? | Yes |
| No |
| No, but recommended. |
| Comments: - enter text here - |
| * 1. If legal representation is required in proceedings, can those other than lawyers represent the parties? | Yes |
| Please specify: - enter text here - |
| No |
| * 1. Is free or reduced rate legal assistance available to an applicant for a protection order or for its recognition and enforcement in your State / jurisdiction? | Yes, free legal assistance |
| Yes, reduced rate legal assistance |
| No |
| Comments: legal assistance is subject to eligibility requirements |

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| * 1. If free or reduced rate legal assistance is not available, in what other ways can your State / jurisdiction assist an applicant financially? | There is a system of costs ordering the respondent to pay |
| Pro bono legal assistance |
| Other |
| Please specify: - enter text here - |
| Not at all |
| * 1. Is free or reduced rate legal assistance available to the respondent? | Yes, free legal assistance |
| Yes, reduced rate legal assistance |
| No |
| * 1. Please indicate on what basis free or reduced rate legal assistance may be available. | Income of the applicant |
| Please specify: - There are eligibility requirements for legal aid (Act Respecting Legal Aid and the Provision of Certain Other Legal Services, CQLR, chapter A-14 (Legal Aid Act): annual income - all sources of income (benefits, compensation, tips, etc.) - of the person and his or her spouse.  Anyone who receives social assistance or social solidarity, other than a special benefit, under a last resort financial assistance program set out in the Individual and Family Assistance Act or who is a member of a family that receives such a benefit is automatically financially eligible for free legal aid |
| Assets of the applicant |
| Please specify:  • The value of certain assets - house, registered retirement savings plans (RRSPs), etc.  • Liquid assets - savings, investments, etc. |
| Age of the applicant |
| Please specify: Minors may be eligible for legal aid |
| Country of residence of the applicant |
| Please specify: -Legal Aid Act. As a result of a federal/provincial/territorial agreement, a person living in Quebec who is financially eligible for legal aid may obtain legal services in a province other than Quebec and vice-versa. |
| Likelihood of success of the proceedings |
| Other |
| Please specify: • Family situation - spouse, children, etc.  Certain individuals who are not eligible for free legal aid may have access to legal aid if they make a financial contribution. |
| * 1. Which costs are covered by free or reduced rate legal assistance? | Translation |
| Interpretation |
| Service of documents |
| Court fees |
| Lawyer fees |
| Other |
| Please specify: the courts and interpretation costs during a hearing are financed by the State. |
| * 1. Does your State / jurisdiction have a prescribed or preferred form for an application for free or reduced rate legal assistance? | Yes |
| Please attach a copy of the form or provide a website link or both: - enter text here - |
| No |
| * 1. Can your State / jurisdiction accept an application and related documents transmitted by electronic means? | Yes |
| Please specify: - enter text here - |
| No |

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| --- | --- |
| 2. challenges / Appeals | |
| * 1. Can the establishment of a domestic protection order or the recognition and / or enforcement of a foreign order be appealed? | Yes |
| Please specify how many levels of appeal exist and to which court(s) / authority(ies) an appeal may be made:  - appeals are brought before the Quebec Court of Appeal. An appeal from an order rendered in an interlocutory judgment is on leave (art. 29 and 511 C.C.P.); if a final decision is involved, the appeal is as of right (art. 26 C.C.P.). With leave, these appeals may be challenged before the Supreme Court of Canada. |
| No |
| Comments: - enter text here - |
| * 1. Who can initiate the appeal process? | Either applicant or respondent |
| Other |
| Please specify: - enter text here - |
| * 1. On what grounds can an appeal be initiated? Please specify. | error of law; error in law and in fact; serious error of fact |
| * 1. Is leave to appeal required? | Yes |
| No |
| In certain circumstances |
| Please specify: see response to question 2.1 |
| * 1. Can the establishment of a domestic protection order or the recognition and / or enforcement of a foreign order be suspended (*i.e.*, ‘stayed’) pending an appeal? | Yes, a protection order or recognition and enforcement is *automatically* suspended pending an appeal |
| Yes, a protection order or recognition and enforcement can be suspended pending an appeal at the request of either party |
| Yes, a protection order or recognition and enforcement can be suspended pending an appeal at the request of either party and after determination by the judge / authority |
| Please specify : - enter text here - |
| No |
| Comments: - enter text here - |
| * 1. Is there a time limit by which an appeal must be filed? | Yes |
| The time limit: 30 days (article 494 Code of Civil Procedure and s. 103 Y.P.A.) |
| From when the time limit starts to run (*e.g.*, from the date of the order, from the date the parties were notified of the order, etc.): Date of the court decision issuing the order |
| No |
| * 1. Generally, what is the expected time within which appeals are filed and decided? | Less than 1 month |
| 1 to 3 months |
| Longer than 3 months |
| Comments: The average time is more than three months except where there is an urgency, in which case it is possible to shorten the time limits (art. 496.1, 547, 576 C.C.P.). The judgment must be rendered within 6 months after the case is taken under advisement (art. 465 C.C.P.). |

**ANNEX I**

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| support services available for victims of domestic violence and other CRIMINAL OR HARMFUL BEHAVIOURS (*e.G.*, see Part V, Section 3.5) in your state / jurisdiction |
| Please attach additional pages as necessary if there are more organisations that offer support services for victims in your State / jurisdiction |
| 1. contact details of organisation offering support services |
| a. Organisation: - Centre d'aide aux victimes d'acte criminel (CAVAC) |
| b. Description of services offered: - CAVAC staff accompany the victim in their dealings with medical and community resources and accompany them throughout the judicial process as the case proceeds. |
| c. Address:  d. Telephone:  e. Fax:  f. E-mail: |
| g. Website: -http://www.cavac.qc.ca/ |
| h. Contact person(s):  i. Language(s): |
| 2. contact details of organisation offering support services |
| a. Organisation: - Shelter |
| b. Description of services offered: These shelters are specifically for abused women and their children and provide the following free and confidential services:   Safe accommodation 24 hours a day, 7 days a week;   A place of listening and support where women are encouraged to regain control of their lives;   Appropriate response to the needs of the children;   External consultation services (without accommodation) at all times;   Support in developing protection scenarios;   Post-shelter follow-up.  Workers are also available to advise and support victims' family members. |
| c. Address:  d. Telephone:  e. Fax:  f. E-mail: |
| g. Website: - http://maisons-femmes.qc.ca/ |
| h. Contact person(s):  i. Language(s): |
| 3. contact details of organisation offering support services |
| a. Organisation: - enter text here - |
| b. Description of services offered: - enter text here - |
| c. Address:  d. Telephone:  e. Fax:  f. E-mail: |
| g. Website: - enter text here - |
| h. Contact person(s):  i. Language(s): |

1. Conclusion and Recommendation No 9 of the Conclusions and Recommendations of the Council on General Affairs and Policy of the Conference (9-11 April 2013) (available on the Hague Conference website at < www.hcch.net > under “Work in Progress” then “General Affairs”). [↑](#footnote-ref-1)
2. For example, in relation to the *Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance* (developed during the negotiations of the Convention), the *Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption* and the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction* (available on the Hague Conference website at < www.hcch.net > under “Conventions”). [↑](#footnote-ref-2)
3. “Questionnaire on the Recognition and Enforcement of Foreign Civil Protection Orders,” Prel. Doc. No 4 A of November 2012 for the attention of the Council of April 2013 on General Affairs and Policy of the Conference (available on the Hague Conference website at < www.hcch.net > under “Work in Progress” then “General Affairs”). [↑](#footnote-ref-3)
4. The areas marked in dark grey highlight could be utilised under a possible future Convention or other international co-operation mechanisms on protection orders. [↑](#footnote-ref-4)
5. *I.e.*, including the application or threat of sanctions for the violation or potential violation of a protection order. [↑](#footnote-ref-5)
6. *E.g.*, the *Council of Europe* *Convention on preventing and combatting violence against women and domestic violence* (adopted 7 April 2011). Art. 53(1) of this Convention requires that all States Parties “ensure that appropriate restraining orders or protection orders are available to victims of all forms of violence covered by the scope of [the] Convention.” [↑](#footnote-ref-6)