

# Surprise, we still have rights!

## COVID-19: Your rights when dealing with the police

*Last update: April 27th, 2020*



*Image credit: Twitter user @itsme\_Tee76*

**This document contains legal information taken from the law currently in force and does not constitute legal advice.**

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### Preamble

On March 11, 2020, the **World Health Organization declared the COVID-19 outbreak a pandemic**. This pandemic led to the multiple laws being applied in both Quebec and Canada. These laws were already in force but had either rarely been applied by the authorities, or were not applicable under normal circumstances. In addition to these laws, many **new governmental Orders in Council and Ministerial Orders** were made, to which we'll return later.

These new laws and orders primarily create new obligations for individuals and new offences when these obligations are not respected. More worryingly, this new legal and factual situation has generated a great deal of **confusion regarding both our obligations and the powers held by the police**.

In the absence of clarification from the authorities, we thought it necessary to compile the relevant legal pieces. We went through the legislative changes in light of pre-existing law. These are, without a doubt, **unprecedented and exceptional circumstances** and many questions will remain unresolved until the courts weigh in.

Moreover, changes are being constantly made, on a daily basis. **This guide will need to be revised** as the situation evolves. Please be sure to check the date of the last update of this document, keeping in mind that specific rules may have been modified in the intervening time.

The goal of this guide is to draw a general outline of the current state of the law in order to better understand the powers held by police officers and to **inform readers of their rights in the context of both a local state of emergency and state of health emergency**. This guide contains neither legal advice nor opinion.

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*We acknowledge that this document was written on the unceded Indigenous land of Tiohtiá:ke / Montreal, which is historically known as a gathering place for many First Nations and is today home to a diverse Indigenous population, along with many other communities.*

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### 1. State of Emergency

#### 1.1. Public Health State of Emergency in Quebec

On March 13, the Quebec government declared a 10-day public health emergency throughout the province under the [Public Health Act \(PHA\)](#), [adopting the Order in Council 177-2020 which declared a public health state of emergency throughout Quebec](#).

This state of emergency conferred **a number of new powers on the provincial government**. These powers are governed by the legal framework in the [PHA. Section 106](#) of this law states that if "there exists a real threat to the health of the population", the government can order the closing of premises, the cessation of activities, and the isolation of individuals.

On March 20, the state of emergency was renewed throughout Quebec for ten additional days by [Order in Council 222-2020 renewing the public health emergency throughout the province](#).

On March 29, the state of emergency was extended until April 7, 2020, by [Order in Council 388-2020 renewing the public health emergency throughout the province](#).

On April 7, the state of emergency was extended until April 16, 2020, by [Order in Council 418-2020 renewing the public health emergency throughout the province](#).

On April 15, the state of emergency was extended until April 24, 2020, by [Order in Council 460-2020](#) renewing the public health emergency throughout the province.

On April 22, the the state of emergency was extended until April 29, 2020, by [Order in Council 478-2020 renewing the public health emergency throughout the province](#).

#### 1.2. Local state of Emergency in Montreal

On March 27, the island of Montreal was the region most affected by COVID-19. Quebec's director of National Public Health, Horacio Arruda, asked the city of Montreal to declare a local state of emergency under section 42 of the [Civil Protection Act \(CPA\)](#).

The same day, Montreal mayor Valérie Plante **declared a 48-hour local state of emergency** "in the context of the pandemic linked to COVID-19", which confers new powers on the urban

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agglomeration of Montreal under section 47 of the [CPA](#). She specified [in her statement](#) that these powers above all aim to mobilize additional material and human resources to protect individuals experiencing homelessness.

The local state of emergency [conferred](#) many new powers on the Civil Protection Coordinator of the urban agglomeration of Montreal, namely to:

- 1) control access to or enforce special rules on or within the roads or the territory concerned ;
- 2) grant authorizations or exemptions in areas under the jurisdiction of the municipality, for the time the Coordinator considers necessary for the rapid and efficient conduct of emergency response operations ;
- 3) where there is no safe alternative, order the evacuation of the inhabitants of all or part of the territory concerned or, on the advice of public health authorities, order their confinement and, where no other resources are available, make arrangements for adequate shelter facilities, the provision of food and clothing and the maintenance of security ;
- 4) require the assistance of any citizen capable of assisting the personnel deployed ;
- 5) requisition rescue services and private shelter facilities within its territory other than the services and shelter facilities requisitioned for the implementation of an emergency preparedness or civil protection plans adopted under certain chapters of the CPA ; and
- 6) make any expenditure or contract the Coordinator considers necessary.

Section 43 of the [CPA](#) states in part that a state of emergency declared by a municipal council is effective for a maximum period of five days at the expiry of which it may be extended as many times as necessary, for a maximum period of five days.

On March 29, the Municipal Council of the City of Montreal [renewed](#) the local state of emergency for five additional days, to allow the Civil Protector Coordinator additional time to act according to the powers listed in section 47 of the [CPA](#).

On the same day, a bylaw was adopted by the [Agglomeration council of the City of Montreal delegating the power to renew the state of emergency to its executive committee](#), still for periods not exceeding five days at a time, as many times as it deems necessary, until June 1, 2020. The City grounds this decision on section 16 of the [Order in Council concerning the Agglomeration of Montreal](#) and section 34 of the [Charter of Ville de Montréal](#) specifying that it is undesirable for the urban agglomeration council to meet every five days during a pandemic.

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### 1.3. National State of Emergency in Canada

At the time of writing, **the government has not declared a state of emergency** at the federal level.

While health is a matter of provincial competence, the federal Parliament has exclusive jurisdiction over questions relating to quarantine, criminal law and the army. This means that only the Canadian Parliament can adopt laws in the three matters just mentioned.

It should be noted that [the Assembly of First Nations \(AFN\) declared a state of emergency for the 643 communities that it represents throughout the country](#) on March 24, in order to participate fully in developing strategies to combat the pandemic in these communities and to access expanded financial aid from the federal government.

#### 1.3.1. COVID-19 Emergency Response Act

Among the legislative tools that the federal government **could** ultimately invoke is the [Emergencies Act](#) (EA), which replaced the War Measures Act in 1988. Its preamble acknowledges that the emergency measures that it authorizes are still subject to the [Canadian Charter of Rights and Freedoms](#).

The [EA](#) has never been invoked since its adoption. It states that the federal government can make a "declaration of of a public welfare emergency" which specifies the state of affairs constituting the emergency and the special temporary measures that the government considers necessary. Such a declaration is valid for 90 days.

Section 14 of the [EA](#) states that the federal government must consult each of the provinces before issuing, continuing, or amending such a declaration.

A federal declaration of a public welfare emergency would allow the government to, for example, ban travel between provinces, requisition buildings or land to build hospitals, or to compel any individual to provide essential services.

#### 1.3.2. Federal Quarantine and Canada Entry Ban

The [Quarantine Act](#) (QA) concerns **travellers to Canada**. Since March 16, entry into Canada has been progressively restricted by [Orders in Council and Ministerial Orders](#). The QA permits the Canadian government to (among other measures):

- impose the obligation to provide information to delegated officers of the State;

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- detain individuals in quarantine facilities by order of the quarantine agent;
- make orders prohibiting the entry into Canada (s. 58 [QA](#)).

An [Order in Council](#) adopted on March 24 required all individuals entering Canada to self-isolate for 14 days following their arrival.

Since March 26, another [Order in Council](#) has banned entry into Canada by non-Canadians from any country (except the United States). There are some exceptions: immediate family members of Canadian citizens or residents, individuals with a work or study permit, some suppliers of essential services, etc.

A March 26 [Order in Council](#) concerning the Canada-US border prohibited entry into Canada for tourism or leisure, for making asylum claims, or if the traveller shows symptoms of COVID-19. As a result, only **essential travel** of symptoms-free individuals is permitted between the United States and Canada.

On March 27, a since repealed [interim Ministerial Order](#) prohibited passengers, including Canadian citizens, from boarding flights to Canada if they showed symptoms such as cough, fever, or difficulty breathing. A second [interim order](#) still applies the same restrictions to inter-city railway travel.

Failure to respect the obligations in the QA could entail **criminal charges**.

★ See the [Criminal offences section](#).

### What is the distinction between a law, an Order in Council and a Ministerial Order?

**Law:** This is a document adopted by the federal Parliament or by Quebec's National Assembly, also called a statute. Technically "Law" can also include court decisions ("case law"), but in this document when we refer to a Law we generally mean a statute.

**Order in Council:** This is a written decision made by the executive power. In Quebec, this is Cabinet, meaning the Premier and his or her ministers.

**Ministerial Order:** This is a written decision made by a minister.

Source: [Encyclopédie du parlementarisme québécois](#)

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### 2. Ban on Gatherings

In Quebec, bans on public gatherings were introduced starting on March 13 and additional restrictions were later tightened. Section 123 of the [Public Health Act](#) allows the provincial government to "order the closing of educational institutions or of any other place of assembly" and to "order any other measures necessary to protect the health of the population."

Because the definition of prohibited gatherings has been evolving, we thought it best to present this topic in chronological order.

#### 2.1. **Nearly All Gatherings Are Banned**

On March 13, 2020, indoor gatherings of more than 250 people were prohibited by [Order in Council 177-2020](#).

On March 15, [Ministerial Order 2020-004](#) required activities to be suspended in "any place open to the public for cultural, educational, sport, recreation or entertainment purposes" as well as in "all bars, discotheques, [and] restaurants offering buffet service." Essentially, **all workplaces and non-essential gathering places were closed**.

On March 20, [Order in Council 222-2020](#) was adopted. It renewed the ban on public gatherings but added additional bans "to protect the health of the population, notwithstanding any incompatible provision." As of that date, **all indoor and outdoor gatherings were banned, aside from the exceptions** set out in the orders.

This order does not define "gathering", nor a minimum number of individuals that constitutes a gathering. We can assume that **a gathering consists of at least two people**.

#### 2.2. **Some Specific Gatherings Are Permitted**

##### 2.2.1. ***Gatherings for Essential Services Are Permitted***

Gatherings within the context of **essential services** as well as those required within **essential work environments** are permitted. The list of essential services and work environments can be found in the [March 24, 2020, Order in Council 223-2020](#) and its amendments, which can be found in the [March 28, 2020, Ministerial Order 2020-011](#), the [April 1, 2020, Ministerial Order 2020-013](#), the [April 2, 2020, Ministerial Order 2020-014](#), the [April 4, 2020, Ministerial](#)

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[Order 2020-015](#), the [April 7, 2020, Ministerial Order 2020-016](#) and the [April 8, 2020, Ministerial Order 2020-017](#). A list is also available [here](#) on the government's website.

A gathering necessary **to obtain a service or product** in a location considered essential is permitted. This will notably be the case, for example, in the queue outside or inside of a grocery store.

A gathering in **a means of transportation** is permitted. This is the case, for example, for people travelling in a metro, a bus or a taxi.

For these three types of gatherings permitted in the context of an essential service, [Order in Council 222-2020](#) requires **a minimum distance** of two metres between each person, but only "**as much as possible.**"

### *2.2.2. Types of Permitted Outdoor Gatherings*

For **individuals living at the same address**, outdoor gatherings are permitted **without the requirement of physical distancing**. This is the case, for example, for family members, couples living together, or roommates.

People who live in the same dwelling can thus walk together, visit a park, be in the street, an alley, on a balcony or in an outdoor yard without any distancing requirement.

If someone is receiving a **service or support from another person** outdoors, the distance between those two people can be less than two metres, depending on the context. This could be the case, for example, for someone helping a cyclist who has suffered a fall.

For **all other types of outdoor gatherings**, a **minimum distance of two metres** must be maintained between the assembled individuals. In other words, outdoor gatherings are permitted only if a distance of two metres (or six and a half feet) is maintained between all individuals who do not live at the same address.

These distancing measures were adopted on March 20 by the [Order in Council renewing the state of emergency throughout the province of Quebec](#) and renewed by the [March 29 Order in Council](#) and the [April 7 Order in Council](#), which means they are still in force.

If you gather outdoors and do not maintain a distance of two metres, the police can stop you to ask you to prove that you live at the same address.

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★ See the sections [Identification Requirements](#), [Consequences of a Prohibited Gathering](#), [Offences](#) and [What Is an Abridged Statement of Offence?](#) for additional information.

### 2.2.3. Types of Permitted Indoor Gatherings

Gatherings inside of a **private residence** are only permitted for residents **of that same address**. This means that couples, family members or friends who do not live at the same address do not have the right to visit one another.

In a private residence, or a space that serves as such a residence, gatherings are permitted for any person **offering a service or requiring support** as stipulated in the March 20 [Order in Council renewing the state of emergency throughout the province of Quebec](#). This is the case, for example, for a person who needs home care. In those cases, a **minimum distance** of two metres must be respected "**to the extent possible**" given the context.

### 2.3. Consequences of a Prohibited Gathering

Failing to respect these restrictions could lead to a visit from the police and the delivery of a **statement of offence** carrying a minimum amount of \$1,546 (a \$1,000 fine plus \$546 in fees) under the [Public Health Act](#).

Refusing to identify yourself could lead to a ticket for hindering a peace officer in the performance of their duties or to **criminal charges** for obstruction of a peace officer in the execution of their duty under section 129 of the [Criminal Code](#).

★ See the sections [Identification Requirements](#), [Offences](#) and [What is an Abridged Statement of Offence?](#) for additional information.

**Caution!** The Quebec government and the Sûreté du Québec are encouraging the population to notify the authorities of individuals who do not respect these restrictions, which could foster "informant" dynamics between neighbours. There is no obligation to inform on another person in Canadian law. Failing to inform the authorities of a someone's act is not the same as aiding or abetting it. Before informing authorities of prohibited gatherings, consider alternatives that avoid criminalization and that involve dialogue. For example, consider the possibility that the people you're witnessing may live in non--traditional family or roommate situations. If you witness a behaviour that bothers you, ask yourself whether the situation could put someone else in danger. If you see someone urinating in public, ask yourself whether this person has a home in which to

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take shelter. If your neighbours are too loud, consider communicating directly with them before involving the authorities. If you see someone behaving in an uncoordinated manner, don't assume that they are intoxicated. Consider the possibility that trauma, an injury or a mental health situation might explain their state. Keep a list of community resources on hand, such as emergency help lines and suicide prevention lines.

### 3. Police Knock at the Door

The police have the right to knock on your door, but they generally need either a warrant or your consent before entering your home. Both the Canadian and Quebec Charters of Rights and Freedoms protect the right of all persons to the respect of their personal lives within their own homes. **An entry without a warrant is presumed to be an abuse of power.** There are, however, some exceptions to this rule.

#### 3.1. **New Exceptions Due to the Pandemic?**

Because this pandemic is an **unprecedented situation**, it is difficult to speak with certainty about police powers and their limits in the era of COVID-19.

The laws in force and the Orders in Council/Ministerial Orders issued under these laws do not currently grant the police any additional powers to enter a private residence without a warrant. Previously [existing rules](#) therefore still apply. In criminal and penal law, trespassing in a residence without a warrant is generally prohibited, with some exceptions. It is up to the courts to determine whether these exceptions apply to different situations relating to the current public health crisis.

In the event of a declaration of a national state of emergency, police power to enter into a residence without a warrant might be expressly conferred pursuant to section 93 of the [Civil Protection Act](#). However, **a national state of emergency has not been declared at this time.**

★ **Caution!** Do not confuse a *local* state of emergency with a *public health* state of emergency - **see the section [State of Emergency](#) for details.**

#### 3.2. **Rules for Penal Offences**

The general rule is that the police cannot enter a place that is not accessible to the public without a warrant issued by a judge. There are, however, some exceptions to this rule.

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The exceptions are slightly different depending on whether a penal offence or a criminal offence are involved. We'll address only the penal offence exceptions here. Remember that a penal offence almost always results in a **ticket**, which does not create a criminal record if one is found guilty of the offence.

In general, the police **cannot enter a place** that is not accessible to the public without a warrant (sec. 83 [Code of penal procedure](#)), **except** for in the following two situations:

- 1) The police officer has reasonable grounds to believe that a person there is committing an offence which **may result in danger to human life or health or the safety of persons or property** and that arresting this individual is the only reasonable means available to put an end to the commission of the offence (sec. 84 Cpp.).
- 2) The police officer has reasonable grounds to believe that **a person is fleeing** from arrest, in which case the officer may pursue them into the place where they are taking refuge (sec. 85 Cpp.).

There is an immediate danger	Someone is fleeing
The police officer has reasonable grounds to believe that <b>a person there is committing an offence which may result in danger to human life or health or the safety of persons or property</b> and that arresting him is the only reasonable means available to him to put an end to the commission of the offence (sec. 84 Cpp.).	The police officer has reasonable grounds to believe that <b>a person is fleeing from arrest</b> may pursue him into the place where he is taking refuge (sec. 85 Cpp.).

### 3.2.1. Specific Warrants for Entry Due to the Health Crisis

A warrant to enter and inspect a dwelling-place is required for the police to be able to enter a private home in order to verify **information regarding travellers returning to Canada** (sec. 47 and following, Quarantine Act).

In the context of an **epidemiological investigation** by a public health director, sections 106 and 108 of the [Public Health Act](#) regulate the powers available to police officers. If an individual refuses the necessary treatment to avoid contagion, the police can be ordered to do

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everything reasonably possible to locate and apprehend the person and take them to a health services institution. However, the police may not enter a private residence without consent or without a court order authorizing them to do so.

★ See the section [Forced Isolation](#).

### 3.2.2. Search and Seizure

If the police have a warrant to enter your home or you give your consent for them to enter, this does not give the police the power to carry out a search.

**Caution!** Police officers do have the right to seize things which are in plain sight. This seizure pursuant to the “**plain view**” doctrine could lead to criminal charges. For example, this will notably be the case if a bag of drugs is out on a table.

## 4. On the Roadways

In the context of a public health state of emergency, the provincial government can prohibit access to all or part of an area (sec. 123 [Public Health Act](#)).

### What is a Health Region?

Any of [18 geographic regions](#) established by the Minister of Health and Social Services to share in the responsibilities of its mission along with health and social services establishments.

### 4.1. Targeted Health Regions

On March 28, [Ministerial Order 2020-011](#) limited access to the entirety of the following health regions:

- Bas-Saint-Laurent
- Saguenay-Lac-Saint-Jean
- Abitibi-Témiscamingue
- Côte-Nord
- Nord-du-Québec
- Gaspésie-Îles-de-la-Madeleine
- Nunavik

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- Terres-Cries-de-la-Baie-James

On April 1, [Ministerial Order 2020-013](#) replaced [Ministerial Order 2020-011](#), and added new regions and access conditions, as well as portions of other health regions.

The following regions are now also covered by the orders:

- The RCMs of Outremont, Joliette, Matawinie and Montcalm in the Lanaudière health region
- The RCMs of Antoine-Labelle, Argenteuil, Les-Pays-d'en-Haut and Les Laurentides in the Laurentides health region
- The agglomeration of La Tuque in the health regions of Mauricie and Centre-du-Québec.

### 4.2. Access Conditions

Access to the entirety of these regions is prohibited, with certain exceptions. **Access is allowed to individuals in any of the following situations:**

1. Your primary residence is in the region;
2. You are transporting goods related to essential work in the region;
3. You are travelling in the region for humanitarian purposes;
4. You are receiving care or services required by a health condition in the region or you are providing such care or such services to someone in the region;
5. You work in an essential service in the region;
6. You are exercising custodial rights or parental access rights in accordance with a court order;
7. You are travelling between two listed regions, which is to say from one region with restricted access to another region with restricted access (except for the areas of the City of Gatineau and the RCM of Les Collines-de-l'Outaouais);
8. You are an employee of the federal government whose workplace is in the region and your presence is required by your employer;
9. You are in transit in Quebec in order to transport merchandise.

**Caution!** You may be required to self-isolate for fourteen days upon your return if you have travelled to one of the listed regions. If you fail to respect this obligation, you may receive a ticket.

★ See the section [Offences](#).

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### 4.3. Denial of Entry

Under the [Public Health Act](#) and the Orders in Council, police officers have the power to ensure that all directives are respected and to make inspections.

Police officers can block your access to an area if you are showing **symptoms linked to COVID-19**, meaning cough, fever, difficulty breathing, sore throat or a loss of sense of smell ([Ministerial Order 2020-013](#)).

The police cannot block your access even if you show symptoms if the purpose of your travel is to obtain **health care services** ([Ministerial Order 2020-013](#)).

### 4.4. Police Checkpoints

As a consequence of the Ministerial Order limiting access to specified regions, police have set up vehicle checkpoints. Police can carry out inspections to verify specific information about individuals wishing to travel to these regions.

The police inspection **must be related** to the pandemic, as well as the reasons for your travel to the region in question.

During the inspection, the police may verify:

- The identities of the driver and the passengers;
- Their reasons for travelling;
- Their state of health;

Any individual who refuses to give their name and reason for travelling may be refused access to the region.

In addition, any person who makes a **false declaration** could receive a ticket under the [Public Health Act](#) and could even face criminal charges for [obstructing](#) a peace officer in the execution of their duties under section 129 of the [Criminal Code](#).

This requirement applies to passengers of all types of motor vehicle as well as any other means of transportation (on foot or by bicycle, for example).

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**Caution!** When travelling between specified health regions, you may find it helpful to have documents with you to provide evidence of the reason for your travel. Speak to your employer, doctor or lawyer.

Even if the police officers only ask for the reason for your travel, the concept of "plain view" allows them to seize any visible objects that are illegal to possess. Such seizures can lead to criminal charges.

**Caution!** Sections 47 and 50 of the [Quarantine Act](#) set out specific rules for vehicle searches in some circumstances. A quarantine officer (a health care worker) or an environmental health officer may inspect a vehicle if it could be a source of an infectious disease. The law specifies the limits on this type of inspection.

### 5. Identification Requirements

#### 5.1. On the Street or in a Public Place

If you are outdoors and not behind the wheel of a vehicle, you are only required to identify yourself in the following situations:

- You have been **arrested**;
- You have been **detained for the purposes of an investigation**;
- A police officer is writing you **a ticket**.

In any of these three situations, the police officer must **inform you of the reasons for their intervention** and why you have been arrested or detained. You must identify yourself in these situations.

This involves providing the police officers with your **legal name**, your **address** and your **date of birth**.

You do not need to provide any **other information** and you have a constitutional right to remain silent. You are not obligated to provide a police officer with your phone number, your email address or your cellphone PIN.

The identification can be verbal: you can identify yourself by stating this information out loud. In Canada, you are not required to carry a piece of identification with you at all times.

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Keep in mind that if arrested or detained, you have a right to immediate legal assistance from the lawyer of your choice.

**Caution!** The police can ask to see a **piece of identification** if they have reason to believe that you have not provided your real identity. To confirm your statements, the police officer could ask you to provide an identification card or a proof of residence containing your address. This is permitted under section 72 of the [Code of Penal Procedure](#).

**Caution!** Refusing to identify yourself or identifying yourself in a misleading fashion could lead to arrest and to criminal charges for obstructing a peace officer in the execution of their duties

However, if you attempt to enter a health region to which access has been limited on foot or by bicycle, you must identify yourself and explain the reason for your travel.

★ See the section [On the Roads](#).

### 5.2. Travelling by Car

If you are **behind the wheel** of a vehicle and are stopped by a police officer, you must identify yourself by showing your **driver's license** and the **vehicle registration**.

This generally only concerns the driver; passengers are not required to identify themselves. However, when travelling to health regions with restricted access, passengers are also required to identify themselves and explain the reason for their travel.

★ See the section [On the Roads](#).

**Caution!** If you are a driver under the age of 20 with a probationary license, there are some restrictions on the passengers you can have on board under the [Highway Safety Code](#). Ensure that the age of your passengers and time of your travel comply with the law.

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### 6. Offences

#### 6.1. Penal Offences

Since March 13, 2020, when the state of emergency was declared in Quebec, police have had the authority to issue tickets for six types of **specific offences** (sec. 139 and f. of the [Public Health Act](#)).

The Act	Prescribed fine (plus fees)	Citation within the <a href="#">Public Health Act</a> (PHA)
Impeding or hindering the Minister, the national public health director, a public health director or a person authorized to act on their behalf	\$1,000-\$6,000 Doubled in case of repeat offence	Section 139, and 142 in case of repeat offences
Refusing to obey an order the above-named authorities are entitled to give	\$1,000-\$6,000 Doubled in case of repeat offence	Section 139, and 142 in case of repeat offences
Refusing to give access to or communicate the information or documents one of the above-named authorities are entitled to require	\$1,000-\$6,000 Doubled in case of repeat offence	Section 139, and 142 in case of repeat offences
Making a false declaration in order to deceive one of the above-named authorities	\$1,000-\$6,000 Doubled in case of repeat offences	Sections 140, and 142 in case of repeat offences
	This offence can be pursued in court up to five years after its commission	
Providing incomplete or misleading information or a document that is incomplete or contains false information in order to deceive one of the above-named authorities	\$1,000-\$6,000 Doubled in case of repeat offences	Sections 140, and 142 in case of repeat offences
	This offence can be pursued in court up to five years after its commission	

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Assisting, encouraging, or advising another person to commit one of these offences	The same penalty as prescribed for the underlying offence. Doubled in case of repeat offences pursuant to Sections 141 and 142.
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**Caution!** If the person who receives the ticket is **under 18**, the fine may not exceed \$500 (sec. 233 [Code of Penal Procedure](#)).

In addition to the penal offences that are unique to the public health crisis, police officers still have the discretion to issue **tickets under provincial law and municipal bylaws**. Consider for example offences for hindering a peace officer in the performance of duties under the [Highway Safety Code](#) (sec. 638.1) or offences for vagrancy under some municipal bylaws.

### 6.2. Criminal Offences

Failing to respect the obligations of the [Quarantine Act](#) could lead to **criminal charges** which could entail severe fines (from \$200,000 to \$1,000,000) or prison (ss. 65 and following). As these are criminal offences, a conviction could entail a **criminal record**, in addition to this harsh sentence.

Police officers also have the discretion to arrest individuals for an offence under the [Criminal Code of Canada](#) (C.C.), depending on the situation. Therefore, depending on the situation, an individual could be charged with a **variety of criminal offences related to the public health crisis**, from obstructing the work of a peace officer or public officer (sec. 129 C.C.) to [criminal negligence](#) causing bodily harm or death (ss. 219-221 C.C.).

## 7. Tickets

After observing an offence, police officers can issue a statement of offence or draw up a general offence report that they will transfer to the Crown.

As of April 13, 1,006 abridged statements of offence (tickets) and general offence reports were drawn up by the Montreal police (SPVM) for failures to respect self-isolation and social distancing rules, according to an article in [La Presse](#). The article mentions that about 10% of police interventions led to such tickets or offence reports.

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### **What is an abridged statement of offence?**

It is a ticket, like those issued for parking violations. It is issued to an individual immediately following the police officer's observation of a behaviour subject to a penal offence, without having to wait for a prosecutor from the DCPD to authorize the prosecution.

On April 3, 2020, the DCPD authorized the SQ and the SPVM to issue abridged statements of offence (tickets) for violations of the ban on gatherings. As of April 7, all of Quebec's municipal police forces have received this authorization.

### **What is a general offence report?**

Under normal procedure, a police officer who issues a ticket writes a general offence report ("event report") and submits it to the Director of Criminal and Penal Prosecutions (DCPP). The officer will note down your name and address. A prosecutor under the DCPD must then authorize the prosecution of the offence and the ticket is mailed to you.

**If you have received a ticket**, you have two options:

- **contest** the ticket or
- **plead guilty** and pay the fine.

Keep in mind that if you are found guilty in court, additional [fees](#) will apply.

If you do not respond to the ticket (by contesting it or pleading guilty) and ignore the hearing notice asking you to appear before a judge, your file will be put before a judge and you will likely be found guilty in your absence.

### **7.1. Contesting a Ticket**

You can only indicate that you intend to **contest** a ticket in writing, by pleading not guilty within 30 days of the date of issue. Find the area on the ticket which contains the plea information and check the appropriate box or, depending on the format of the ticket, otherwise indicate your non-guilty plea.

Upon receipt of your plea, the Court will send you a **notice of hearing** including the location, date and time of your hearing. Check that your address on the ticket is correct—the notice of hearing will be sent there.

As part of your preparation for the hearing, you can ask for **disclosure of the evidence**, which will contain the police report written by the officer who issued you the ticket.

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The day of the hearing, the lawyer for the prosecutor's office must prove that you committed the offence listed on the ticket. This evidence could be documentary, meaning that the **prosecutor** could present the court with the written report, without having the police officer appear to testify in person. However, you may request the officer's presence in advance of the hearing if you would like to cross-examine them, or question them before the court.

After the prosecution has presented its evidence, you can present your **defence** using witness statements or admissible material evidence. You have the **right to representation by a lawyer**, but keep in mind that contesting a ticket is not generally covered by legal aid.

### 7.2. Consequences of a Ticket

If you have received a ticket, for example for a prohibited gathering, keep in mind that this is not a criminal charge. You will not have a **criminal record** if you plead guilty or are found guilty. You will not be penalized for jobs or future trips abroad, for example.

The **consequence** of pleading guilty to a ticket is a **monetary debt** to the [Bureau des infractions et amendes](#). You have a number of options to pay the amount due: pay the entirety of the ticket, make a payment plan, or accept a compensatory work agreement. In the last case, you must demonstrate that you have limited financial means (for example, welfare, unemployment, studying, lack of income).

Be aware that this debt could double or triple if it remains unpaid for a certain amount of time. An order of **seizure** could be issued against you to recover the amount. The implementation of this order is limited by [specific rules](#) which protect your personal possessions and your residence.

If you do not accept a payment agreement and ignore the notice from the [Bureau des infractions et amendes](#), in the case of a ticket for a provincial offence, a **warrant for committal (incarceration)** could be ordered against you. A notice will be sent to you to inform you of the hearing for this purpose. The length of the incarceration will be up to the judge's discretion, but many courts apply a ratio of \$25 per day of imprisonment. This incarceration will have the effect of eliminating the open balance on your fine.

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**Caution!** The health crisis affects court procedures! Stay informed on the state of your case by checking the [press releases and instructions](#) from the tribunal before which you have to appear. Also, since [Order 2020-009 of the Minister of Health and Social Services](#) was released on March 23, 2020, **certain delays in penal matters are suspended**, such as:

- The 30 days delay to enter a non guilty plea.
- The delay to request the revocation of a judgment.
- The delay to pay an outstanding amount to a collector.
- The delay to complete mandated compensatory work.

## 8. Forced Isolation

### 8.1. Public Health Act

A public health director, if they believe on reasonable grounds that the person has been in contact with COVID-19, can order that person to remain in isolation for a maximum period of **72 hours** or to comply with certain specific directives so as to prevent contagion or contamination (sec. 103 [Public Health Act](#) (PHA)).

This forced isolation cannot last longer than 72 hours (3 days) without the consent of the individual or without a court order. In addition to a maximum of 30 days isolation, a judge can also grant an order requiring the person to receive medical treatment (sec. 109 [PHA](#)).

### 8.2. A New Ministerial Order

[Ministerial Order 2020-015](#), made on April 4, 2020, however, allows public health directors to impose isolation for a period **no longer than 14 days** without court approval. This can be done where an individual:

1. shows symptoms linked to COVID-19 and there are serious reasons to believe that they were in contact with someone who has the illness;
2. lives or is staying in an environment in which persons with COVID-19-related vulnerability factors are also living or staying, or in an environment where there is an increased risk of COVID-19 transmission, and there are serious reasons to believe that this person has been in contact with a person who has the illness;
3. lives or is staying in an environment in which persons having COVID-19-related vulnerability factors are also living or staying, or in an environment where there is a

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greater risk of COVID-19 transmission, and the individual shows symptoms linked to COVID-19; or

4. is awaiting the results of a priority COVID-19 screening test.

Forced isolation pursuant to the April 4 [Ministerial Order 2020-015](#) must end as soon as the person receives a negative result to a COVID-19 screening test or when the risks of contagion are no longer present.

The legality of the power granted by the Ministerial Order is **subject to debate** and could be invalidated by the courts.

### 8.3. Contesting a Forced Isolation

In any case, extraordinary recourse before the Superior Court in the form of an application to issue a writ of *habeas corpus* is always possible, notably in the first three days of forced isolation under the [PHA](#) or the April 4, 2020 [Ministerial Order 2020-015](#).

A person who is apprehended, whether for isolation of 72 hours or 14 days, must be informed immediately of the reasons for the isolation order, the place where they are being taken and of their right to communicate with an advocate (sec. 108 [PHA](#)).

**Caution!** Sections 28 and following of the [Quarantine Act](#) set out specific rules for detaining certain travellers. This law also sets out a process **for rapid review** of such detention.

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### APPENDIX 1

#### List of resources

##### **Our inspiration for this guide (thank you to the COBP!)**

The guide Guess What! We've got rights?!

<https://cobp.resist.ca/sites/cobp.resist.ca/files/GUESS%20WHAT.pdf>

Also available in [French](#).

##### **List of laws, Orders in Council and Ministerial Orders (in French)**

<https://www.caij.qc.ca/dossier/covid-19>

##### **Legal defence organizations**

Canadian Civil Liberties Association: [ccla.org](http://ccla.org)

The First Peoples Justice Center of Montreal: [cjppm.org](http://cjppm.org)

Community Justice Centers: [justicedeproximite.qc.ca](http://justicedeproximite.qc.ca)

Clinique Droits devant: [cliniquedroitsdevant.org](http://cliniquedroitsdevant.org)

Ligue des droits et libertés: [liguedesdroits.ca](http://liguedesdroits.ca)

Services parajudiciaires autochtones/Native Para-Judicial Services of Quebec: [spaq.qc.ca](http://spaq.qc.ca)

##### **Social programs at Montreal's Municipal Court**

Programme accompagnement justice itinérance à la Cour (PAJIC):

[www.cliniquedroitsdevant.org/index.php/en/pajic-2](http://www.cliniquedroitsdevant.org/index.php/en/pajic-2)

Justice and mental health support program (PAJSM):

<https://www.justice.gouv.qc.ca/en/programs-and-services/programs/justice-and-mental-health-support-program>

Eve Program (for women accused of economic crimes)

<http://www.elizabethfry.qc.ca/en/eve-program/>

##### **Legal information**

COVID-19 legal assistance clinic from the Barreau du Québec (in French):

[www.barreau.qc.ca/fr/actualites/info-barreau/covid-cinique-conseils-juridiques-gratuits](http://www.barreau.qc.ca/fr/actualites/info-barreau/covid-cinique-conseils-juridiques-gratuits)

Commission des droits de la personne et des droits de la jeunesse - FAQ (in French):

[www.cdpcj.qc.ca/fr/COVID-19/Pages/FAQ-Charte.aspx](http://www.cdpcj.qc.ca/fr/COVID-19/Pages/FAQ-Charte.aspx)

Éducaloi: [educaloi.qc.ca](http://educaloi.qc.ca) and <https://www.educaloi.qc.ca/en/covid-19>

Workers' rights guide during the COVID-19 pandemic (in French):

[docs.google.com/document/d/1EB0nTKNJJXesh8txqPJTt0s2cIYySTAZfR8l3PWzYvl/edit?usp=sharing](https://docs.google.com/document/d/1EB0nTKNJJXesh8txqPJTt0s2cIYySTAZfR8l3PWzYvl/edit?usp=sharing)

##### **Other**

Policing the Pandemic Across Canada: [www.policingthepandemic.ca](http://www.policingthepandemic.ca)