

# FAITS SAILLANTS



Études et recherches du Curateur public du Québec

## Survey on the awareness and use of the protection mandate: 42% OF QUÉBECERS HAVE A PROTECTION MANDATE

A December 2015 survey of 1,000 people commissioned by the Curateur public du Québec showed that 42% of the adult population, or 2.8 million people, have a protection mandate—an increase of six percentage points over the previous surveys conducted in 2010 and 2006.

The survey also showed that 58% of respondents have a will, meaning that more Québécois are concerned about what will happen to their assets when they die than what will become of themselves and their patrimony in the event they are declared incapable.

The protection mandate is what allows a person to determine beforehand who will make decisions about his welfare and who will manage his assets if he becomes incapable. An incapacity can happen at any time and for several reasons: an accident, a degenerative disease, a mental health problem, a cognitive disability, etc.

At a time when the population is aging and cases of incapacity are unfortunately more common, the protection mandate is an especially important document. In recent years, a great deal of emphasis has been placed on educating the public about the protection mandate and its importance.

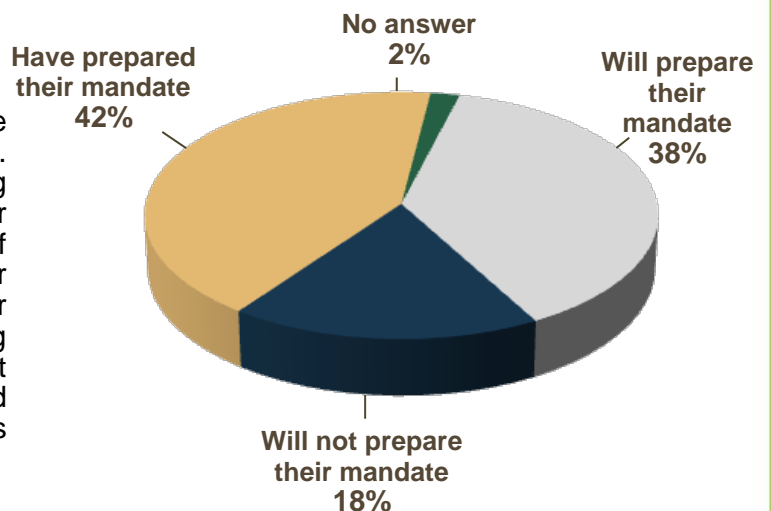
### Mandate more common with age

The survey showed that the older people are, the more likely they are to have prepared their mandate. The protection mandate is still more popular among older people, who may understand its particular usefulness at this stage of their life. In fact, 67% of people age 55 and over have prepared their mandate. In the age 18-34 bracket, this number drops to 14%. Among the reasons cited for having prepared their mandate, 23% of respondents said it was as a precaution, 14% said it was to guard against a possible incapacity, and 13% cited risks related to their age, a disease, or their occupation.



Interestingly, when it comes to awareness about the protection mandate, two-thirds of respondents who had not yet prepared theirs said they plan to do so (66%), which represents more than two in ten people in the next year (23%).

### Québécois and the protection mandate



## How to prepare your mandate

The survey showed that most people (85%) prepare their mandate before a notary, which is explained by the fact that protection mandates and wills are generally prepared at the same time (89%).

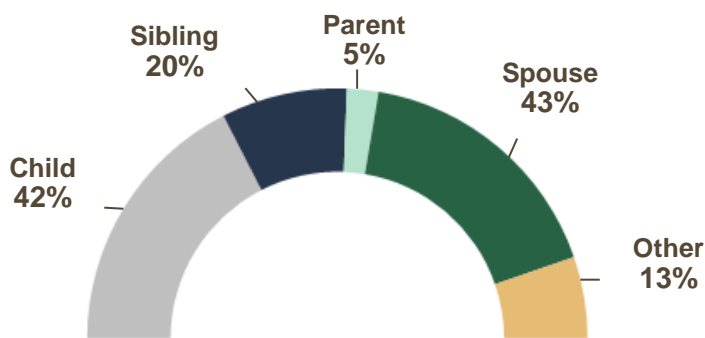
Among respondents who had written their mandate themselves in front of witnesses (14%), three in ten used the form available on the Curateur public du Québec's website (30%).

## Who are the mandataries?

The person preparing his mandate can appoint more than one person as his mandatary. Most often, the respondents named their spouse (43%) or their children (42%), and, to a lesser extent, a sibling (20%). The vast majority also stated that the people they appointed had been informed of the existence of the mandate (97%).

Three-quarters of respondents said they provided for one or more replacements in their mandate, in case their representative(s) is/are unable or refuse to act (76%). However, less than half said that they named an overseer to whom the mandatary must submit management reports (45%).

Person appointed as mandatary



## The importance of reviewing your mandate

Because romantic relationships and family situations can change for many reasons (separation, illness, death, remarriage, birth, etc.), it's important to review your mandate—something that too many people overlook. Reviewing the information and decisions stated in the mandate is essential to making sure it remains valid if it is to be homologated.

On this matter, even though half of all mandates have been prepared for at least six years (50%), a very large majority of respondents have not made changes to their mandate since preparing it (89%). However, one-third of respondents have reread their mandate since preparing it (33%), and almost half in the last year (46%).

## Cause for confusion

At the beginning of the interview, when we asked respondents to choose which of the two statements defined the protection mandate, more than three-quarters answered correctly (77%).

However, at the end of the interview, only six in ten were able to name the protection mandate from the definition given (62%). The most common source of confusion is mistaking the protection mandate for a power of attorney (24%). A power of attorney is a document that gives someone the power to act on behalf of another person in very specific circumstances. A person who issues a power of attorney must have the ability to oversee the actions provided for in the document.

## Is a notarized mandate the same thing as a mandate as a private writing?

With good reason, half of all respondents (50%) believe that a protection mandate as a private writing (written by the person and signed in front of witnesses) carries the same weight as a mandate prepared by a notary.

## Effective date of the mandate

In answer to a multiple-choice question about when the protection mandate takes effect, just over 25% of respondents said that it takes effect when a court declares a person incapable (27%), which is correct. Close to six in ten respondents wrongly believe that it takes effect when a physician or a social worker decides it is necessary (58%).

When asked if they thought that the mandate has to be submitted to the court before taking effect, four in ten people said yes (41%).

Since 2006, the Curateur public du Québec has conducted public surveys to track changes in the awareness and use of the protection mandate.

*Note: The percentages in the graphs do not add up to 100% because respondents were allowed to give more than one answer.*

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Survey by the BIP – Bureau d'intervieweurs professionnels

Sondage sur la notoriété et l'utilisation faite des mandats donnés en prévision de l'incapacité

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