

EXPLANATORY NOTES

APPLICATION FOR PROVISIONAL CUSTODY FOR THE PURPOSE OF A PSYCHIATRIC ASSESSMENT (SJ-1223A)

Using the form “Application for provisional custody for the purpose of a psychiatric assessment”, you can apply to the court for provisional custody in a health or social services institution for the purpose of a psychiatric assessment where a person refuses to undergo such an assessment and there are serious reasons to believe that the person is a danger to themselves or to others owing to their mental state.

TYPES OF FORMS

- Dynamic PDF:

After completing the form, you can print it on letter-sized paper, i.e. 8.5 inches by 11 inches (215.9 mm by 279.4 mm).

- Paper:

If you complete the form by hand, please write legibly in block letters.

PROCEDURE

Once the form is completed, you should keep a copy for your files.

The form must be sworn, either before a commissioner for oaths, a clerk or by any other person authorized to administer the oath.

You will need to contact the office of the courthouse to obtain the information to complete the “Notice of presentation” section of the form.

The application must then be served on:

- the defendant (unless authorized otherwise by the Court);
- the impleaded party or the intervening party, as applicable.

Service may be made by any appropriate method that makes it possible to prove that the document was remitted to its recipient (for example, by bailiff or in person).

FILING AT THE COURT OFFICE

You must then submit the application to the office of the courthouse, along with any supporting documents and proof of service. To do this, you may use the Digital Court Office of Québec (GNJQ), which is accessible via the website of the Ministère de la Justice, at www.justice.gouv.qc.ca.

For further information, as well as the contact information for all courthouses in the province of Québec, consult the website of the Ministère de la Justice.

CANADA
PROVINCE OF QUÉBEC
District:
Locality:
File No.

COURT OF QUÉBEC

_____ name

_____ address

Applicant

and

_____ name and date of birth

_____ address

Defendant

and

_____ name

_____ address

(the impleaded party must sign the back of the application if service is not made by bailiff)

**APPLICATION FOR PROVISIONAL CUSTODY
FOR THE PURPOSE OF A PSYCHIATRIC ASSESSMENT**
(art. 26 *et seq.* C.C.Q. and art. 391 *et seq.* C.C.P.)

TO ONE OF THE HONOURABLE JUDGES OF THE COURT OF QUÉBEC, THE APPLICANT RESPECTFULLY STATES THE FOLLOWING:

1. The applicant is an interested person within the meaning of the law because:

2. The applicant states that there are serious reasons to believe that the defendant is a danger to themselves or to others owing to their mental state, considering the following facts, situations or events in particular: (if you need additional space, complete the Schedule on page 5)

2.1

2.2

2.3

2.4

2.5

3. The defendant refuses to undergo a psychiatric assessment.
4. Therefore, the applicant is asking the Court to order that the defendant be confined temporarily in the following health or social services institution or in any other institution mentioned in the order to undergo a psychiatric assessment:
-
5. Insofar as possible, the applicant will go without delay to the health or social services institution concerned in order to cooperate with the administrative authorities responsible for executing the order for provisional custody for the purpose of a psychiatric assessment and to answer any questions asked by the physician in charge of the assessment, the whole in the best interest of the defendant.
6. The applicant is asking the Court to be exempted from serving this application on the defendant, for the following reason(s):
- Such service would be harmful to the health or safety of
 - the defendant
 - another person
 - There is an urgent situation
 - Other reasons:
-
-
-
7. The applicant is asking that the defendant be exempted from being examined by the Court for the following reason(s):
- The defendant has fled or cannot be found
 - It is clearly inexpedient to require the defendant's testimony because of
 - the urgency of the situation
 - the defendant's state of health
 - Such an examination could be harmful to the health or safety of
 - the defendant
 - other persons
 - Other reasons:
-
-
-
8. Given the urgency of the situation, the applicant is asking the Court to shorten the period for filing this application.

THEREFORE, THE APPLICANT IS ASKING THE COURT TO:

ORDER the defendant, without delay, to undergo a psychiatric assessment in the following health or social services institution or in any other institution mentioned in the order:

ORDER that the defendant be confined temporarily in the said health or social services institution to undergo a psychiatric assessment;

ORDER any peace officer to take the defendant to the health or social services institution mentioned above;

ORDER the director of professional services or the executive director of the said institution to give the Court a psychiatric assessment report within seven (7) days of the order;

- DISPENSE** with service of the application to the defendant;
- EXEMPT** the defendant from being examined by the Court;
- SHORTEN** the period for filing this application, given the urgency of the situation;

THE WHOLE without costs, except in the event of contestation.

In _____, on _____

Applicant

SCHEDULE – PARAGRAPH 2

2.6

2.7

2.8

2.9

2.10

AFFIDAVIT

I, the undersigned, _____,

domiciled and residing at _____,

solemnly affirm that:

1. I am the applicant.
2. All the facts alleged in this application are true.

And I have signed

Signature

Sworn before me

In _____, on _____

Court clerk / Commissioner for oaths

NOTICE OF PRESENTATION

To: _____
defendant (if no exemption is requested)

address

To: _____

address

Be advised that the application will be presented before the Court on _____, at _____ a.m./p.m.,
in room _____ of the _____ courthouse,
located at _____.

In _____, on _____

Applicant

**NOTICE ACCOMPANYING AN APPLICATION RELATING TO THE PERSONAL INTEGRITY, STATUS OR
CAPACITY OF A PERSON OF FULL AGE OR A MINOR 14 YEARS OF AGE OR OLDER**
Application presented before the court
(article 393 C.C.P.)

RIGHT TO PERSONAL INTEGRITY

A party cannot require you to undergo a physical or mental examination unless your physical or mental condition must be considered in order to rule on a judicial application. Even in such a case, the physical or mental examination must be warranted given the nature, complexity and purpose of the judicial application.

RIGHT TO BE HEARD

Before making a decision, the court must hear you in person to allow you to make representations, give your opinion or answer questions. However, if it is impossible or clearly inexpedient to hear you because of the urgency of the situation or your state of health, or if it is shown that requiring you to testify could be harmful to your health or safety or that of other persons, the court is not required to hear you.

If the application concerns the provision of care or the alienation of a body part and if you refuse, the court must respect your refusal unless the care is required by your state of health.

RIGHT TO BE REPRESENTED

If the application follows contentious proceedings, you may be represented by a lawyer. If it follows non-contentious proceedings, you may be represented by a lawyer or notary.

If you are not represented by a tutor, curator or mandatary, the court may order the appointment of a lawyer to represent you if it considers you incapable and considers it necessary to safeguard your rights and interests. The court will rule on the lawyer's fee, depending on the circumstances.

RIGHT TO BE ASSISTED

If you are a minor or an incapable person, you may be accompanied by someone capable of providing assistance or reassurance when the court is to hear you.

If a hearing concerning your personal integrity or capacity takes place in camera, you may be accompanied by someone capable of providing assistance or reassurance. However, if circumstances so require, the court may exclude such persons to prevent serious prejudice to a person whose interests may be affected by the application or by the proceeding.

RIGHT TO PRIVACY

Access to documents pertaining to your health or psychosocial situation is restricted if they have been filed in the court record in a sealed envelope. The documents may only be consulted or copied by the parties, by their representatives, by lawyers and notaries, by persons designated by law, and by any person, including a journalist, who has been authorized by the court after proving a legitimate interest, subject to the access conditions and procedure determined by the court.

RECOURSE AGAINST A JUDGMENT

If a decision concerning your capacity is rendered by a special clerk, an application for review may be filed at the office of the court within 10 days after the date of the decision.

A judgment or order made concerning this application may be appealed within 30 days after the date of the notice of judgment or after the date of the judgment if it was rendered at the hearing.

However, the time limit for appealing a judgment is:

- 10 days if the appeal concerns a judgment refusing your release or if the appeal is presented by a party that wishes to join an appeal that was presented previously;
- 5 days if the appeal concerns a judgment ordering your release, granting an application for authorization affecting your personal integrity or ordering you to be held in custody in order to undergo a psychiatric assessment or following a psychiatric assessment.

You can request the review of a judgment concerning your personal integrity or capacity when you, or any interested party, are able to present new facts sufficient to result in the varying of the judgment.

LEGAL COSTS

If the application concerns your capacity, you will bear the legal costs unless the court decides otherwise.

I have received a copy of this application in lieu of service to the defendant and consent to filing (unless an exemption from service is requested)

In _____, on _____

Defendant

I have received a copy of this application in lieu of service to the _____ and consent to filing (mandatory if service is not made by bailiff)

In _____, on _____

File No.

COURT OF QUÉBEC

District:

Locality:

Applicant

v.

Defendant

and

**APPLICATION FOR PROVISIONAL CUSTODY
FOR THE PURPOSE OF A PSYCHIATRIC
ASSESSMENT**

(art. 26 et seq. C.C.Q. and
art. 391 et seq. C.C.P.)

Applicant:

Address:

Telephone: home
office

Email:

CANADA
PROVINCE OF QUÉBEC
District:
Locality:
File No.

COURT OF QUÉBEC

_____ name

_____ address

Applicant

and

_____ name and date of birth

_____ address

Defendant

and

_____ name

_____ address

**APPLICATION FOR PROVISIONAL CUSTODY
FOR THE PURPOSE OF A PSYCHIATRIC ASSESSMENT**
(art. 26 *et seq.* C.C.Q. and art. 391 *et seq.* C.C.P.)

GIVEN the application for provisional custody for the purpose of a psychiatric assessment;

GIVEN the evidence submitted;

GIVEN the absence of consent on the part of the defendant;

GIVEN the urgency of the situation;

THEREFORE, THE COURT:

ORDERS the defendant to undergo a psychiatric assessment without delay at the following health or social services institution:

ORDERS that the defendant be confined temporarily at the said health or social services institution for a psychiatric assessment;

ORDERS any peace officer to take the defendant to the health or social services institution mentioned above;

ORDERS the director of professional services or the executive director of the said institution to give the Court a psychiatric assessment report within seven (7) days of the order;

DISPENSES with service of the application to the defendant;

EXEMPTS the defendant from being examined by the Court;

SHORTENS the period for filing the application;

THE WHOLE without costs.

In _____, on _____

Judge of the Court of Québec

Judge of the Court of Québec (in block letters)