

**PENAL PROCEDURE CODE
APPLICATION FOR REVOCATION OF JUDGMENT AND STAY OF EXECUTION
GENERAL INFORMATION**

The attached form is intended for any person who wishes to file an application for revocation of judgment following a **default conviction** for an offence under a Quebec law or municipal by-law.

1. CONDITIONS FOR PRESENTING AN APPLICATION FOR REVOCATION

Deadline for submission: Your application must be filed within 15 days of the date on which you became aware of the judgment finding you guilty. If the 15-day time limit has expired, you may apply to be relieved of the consequences of your delay by completing paragraph 3 of the attached form. You must explain why you were unable to submit your application within the deadline.

Who do you address the application to? If you have been found guilty by default, and for a serious reason you have been unable to present a defense, you may submit your application for revocation of judgment either to the judge who rendered the judgment or to a judge **in the judicial district where the judgment was rendered:**

**Municipal Court
MRC des-Collines-de-l'Outaouais
216 Old Chelsea Road
Chelsea (Québec) J9B 1J4
courmunicipale@mrcdescollines.com
Fax: 819 827-5712**

Stay of execution: The application to set aside the judgment does not prevent the judgment from being executed. You must expressly request a stay of execution by completing paragraph 6 of the attached form. A decision granting your request has the effect of suspending execution of the judgment.

Impact of demand: If the judge grants your request to revoke the judgment, the parties are returned to the state they were in before the trial. The judge may then rehear the case or adjourn it.

Costs payable: Yes, in accordance with the judicial tariff under the Penal Procedure Code in effect.

Costs (payable by debit or credit card, cash, money order or certified cheque) are required for the revocation request. Additional costs are required for a stay of execution. In addition, the judge who grants or denies the request may impose costs that are set by provincial regulation.

2. CONDITIONS FOR COMPLETING THE ENCLOSED FORM

Part 1 – The Application:

A. The header:

Enter your surname, first name, date of birth, address, postal code and telephone number in the space provided.

B. The allegations

Paragraph 1: Enter the date of conviction on the notice of judgment, the notice of execution or the minutes of the hearing.

Paragraph 2: Enter the date on which you learned of the judgment finding you guilty.

Paragraph 3: You must complete this paragraph **only** if your application for revocation of judgment is filed after the 15-day period following the date on which you became aware of the judgment finding you guilty. You must explain why you were unable to submit your application within the deadline.

Paragraph 4: You must explain why your defense could not be heard.

Paragraph 5: You must convince the judge that you have serious grounds for contesting the judgment. To do this, you will be asked at the hearing of your application to state your reasons for contesting the judgment.

Paragraph 6: Describe the damage you will suffer if the judgment is enforced.

Conclusion: Be sure to check (✓) the appropriate box(es). Sign and indicate the date and place of signature.

Part 2 - Solemn affirmation

You must make the solemn affirmation before a commissioner of oaths, a lawyer, a notary, a justice of the peace or the clerk of a court of justice.

Part 3 - Notice

The notice must be sent to the prosecutor and the fines collector. When filing the notice, you will obtain from the court clerk's office the date and time of presentation of your application for revocation. This information will be recorded on the notice.

You must serve your application for revocation on the prosecutor at least 5 working days before the date of your application and, within the same time limit, file this application with the clerk of the court in the place where the judgment was rendered. Service may be made in person, by registered or certified mail or by bailiff. This service may be replaced by a receipt signed and dated by the prosecutor and bearing the words "Received copy for service". You must also send a copy of your request to the collector of fines.

PROVISIONS OF THE PENAL PROCEDURE CODE RELATING TO SERVICE, THE PRESENTATION OF SUBMISSIONS AND THE REVOCATION OF THE OF JUDGMENT AT THE DEFENDANT'S REQUEST (C.P.P., Sections 19, 31, 32, 250 to 256)

- s.19 Service of proceedings prescribed in this code or in the rules of practice may be made by mail or by a peace officer or bailiff.
- s. 31 All written requests must state precisely and concisely the facts and reasons on which they are based, and the conclusions sought. An affidavit attesting to the alleged facts must be attached to the request. All written requests are subject to prior notice indicating the date and place of presentation.
- s. 32 Unless otherwise stipulated, all notices and, where applicable, written requests and affidavits must be served on the opposing party at least five clear days before the date of presentation of the application and must be filed with the clerk of the competent court at the place of presentation within this period, unless the rules of practice provide for a different time limit.
- s. 250 A defendant who has been found guilty by default and who, for a serious reason, has been unable to present his defense, may apply to the judge who rendered the judgment or, if he is unavailable, to a judge having jurisdiction to render the judgment in the judicial district where the judgment was rendered. Where the judgment was rendered in the district referred to in section 187, paragraph 2, the application for revocation may also be made in the district where the proceedings were instituted.
- s. 251 The application for revocation must be made in writing and must state, in addition to the grounds on which it is based, that the defendant is contesting the validity of the judgment. However, it can also be made orally when the defendant appears at the hearing after the judge has given judgment, provided that the judge and the prosecutor are still present in the courtroom.
- s. 252 The written request must be filed within 15 days of the date on which the defendant learned of the judgment finding him guilty. However, upon written request, the judge may relieve the defendant of his delay if he establishes that it was impossible for him to apply for a revocation of judgment within this time limit.
- s. 253 The judge grants the application for revocation if he or she is convinced that the grounds for revocation are serious, and that the defendant has grounds to contest the merits of the judgment. When the application is granted, the parties are returned to the state they were in prior to the trial, and the judge may either rehear the case or adjourn the new trial to a later date.
- s. 254 The judge who rejects the application for revocation may do so with or without costs, the amount of which is set by regulation. If he grants the application, he may do so without costs or order that costs be determined, if applicable, at the time of judgment at trial.
- s.255 An application for revocation does not result in a stay of execution, unless the judge orders a stay at the defendant's request. Notice of the application for a stay of execution is served on the prosecutor unless he is present at the time of the application. However, in an emergency, the judge may order a stay of execution even if the pursuing party has not been served with notice of the application.
- a. 256 The person responsible for enforcing the judgment is required to stay the execution and to return the enforcement order to the court clerk's office without delay, as soon as he has been served with a copy of the decision granting the request for withdrawal or stay of execution.