

## EXPLANATORY NOTES

### APPLICATION FOR REVOCATION OF JUDGMENT AND STAY OF EXECUTION (SJ-721)

The “Application for Revocation of Judgment and Stay of Execution” form is available for all persons found guilty by default of an offence against a penal law who wish to ask a judge for cancellation of the judgment on the ground that they were unable to present their defence. For more information, as well as the addresses and telephone numbers of all courthouses in the province of Québec, consult the [list of courthouses](#) on the Website of the ministère de la Justice.

#### TYPE OF FORM

The “Application for Revocation of Judgment and Stay of Execution” form is available in dynamic PDF format, which means that it can be completed on screen.

#### PROCEDURE

After filling out the form, you should keep a copy for your files. You must then file your application at the office of the court that rendered the default judgment of conviction or the office of the court in the district where proceedings were instituted. The application must be sworn, either before a commissioner for oaths or the court clerk, in which case it can be done at the time of filing. You should also plan to pay the [costs](#) at that time.

# Application for Revocation of Judgment and Stay of Execution

*(Application for cancellation of a default judgment of conviction and for suspension of execution of the judgment)*

## ▶ General information on the application for revocation of judgment and stay of execution

*(The provisions governing the application for revocation of judgment and stay of execution are contained in sections 250 and 255 of the Code of Penal Procedure.)*

### WHO MAY FILE THE APPLICATION?

This application is for persons convicted by default of an offence under a Québec penal law and who wish to ask a judge for cancellation of the judgment on the ground that they were prevented from presenting their defence. The application is also for persons wishing to ask a judge to order a stay of the judgment execution proceedings brought against them.

A person can be convicted by default for failure to comply with a statement of offence within the required time period or for failure to appear in court for his or her trial.

The judge can cancel the judgment rendered if the grounds given for preventing the person from presenting his or her defence are believed to be serious. The judge can also order, on application, a stay of the judgment execution proceedings.

### WHERE IS THE APPLICATION TO BE FILED?

The application must be filed at the office of the court where the default judgment of conviction was rendered or at the office of the court where proceedings were instituted.

### WHEN DOES THE APPLICATION HAVE TO BE FILED?

The application must be filed within 15 days after you acquire **knowledge** of the judgment convicting you. If you file the application after that time period, you must explain the reasons for the delay in section 2 of the application.

### WILL THE APPLICATION FOR REVOCATION OF JUDGMENT STAY THE EXECUTION OF THE JUDGMENT?

No. A stay of execution of judgment cannot be obtained simply by filling an application for revocation of judgment. To obtain a stay of execution, you must ask a judge to stop the judgment execution proceedings brought against you. To request a stay of execution, complete sections 5 and 6 of the application.

### WHAT HAPPENS IF THE APPLICATION FOR REVOCATION OF JUDGMENT IS ACCEPTED?

If the judge grants your application, the judgment will be cancelled and you will be placed in the position you were in before your conviction by default. The judge will then recommence the trial, allowing you to present your defense.

### WHAT HAPPENS IF THE JUDGE GRANTS MY APPLICATION FOR STAY OF EXECUTION?

The court clerk will notify the collector of the Bureau régional des infractions et amendes, who will take the necessary steps with the bailiff and the Société de l'assurance automobile du Québec to have the suspension of the driver's licence lifted.

### ARE THERE FEES FOR FILING AN APPLICATION?

Yes. When applying for a revocation of judgment and stay of execution, court fees are payable for each application. The clerk will inform you of the amounts payable.

Fees are payable in cash or by postal money order, credit card, debit card or certified cheque made out to the Minister of Finance.

**Refer to the attached instructions for completing the application for revocation of judgment and stay of execution.**

## INSTRUCTIONS

### ▶ How to fill out the application

Complete the heading and present the facts and the conclusions sought in the attached application. On the back of the form, be sure to fill out the sections “*Sworn Statement or Solemn Affirmation*” and “*Prior Notice*”.

#### HEADING

- ▶ Specify the name of the district and locality where the application is being filed. The application must be presented in the same judicial district where the judgment was rendered or in the district where proceedings were instituted.
- ▶ Indicate the file number assigned by the clerk and the number of the statement of offence specified on the notice of judgment or on the writ of execution given to you by the bailiff.
- ▶ Enter your family name, given name, date of birth, address and postal code in the space provided for the applicant.
- ▶ Indicate the name of the prosecutor in the space provided for the respondent.

#### FACTS

*(The numbers of the explanatory notes refer to the corresponding sections of the form.)*

1. Enter the date of the conviction indicated on any of the following documents: **the notice of judgment, the writ of execution or the minutes of the trial.**
2. Specify the date on which you acquired knowledge of the judgment convicting you. If you exceed the 15 days allowed for filling your application for revocation of judgment, explain why it was impossible for you to present your application in the time allotted.
3. Explain why you were unable to appear in court to defend yourself. The reasons for not presenting your defence must be convincing and serious.
4. Briefly explain why you are contesting the merits of the judgment rendered against you.
5. Check (✓) this box if you wish to ask the judge for a stay of the judgment execution proceedings. Explain why you risk suffering irreparable prejudice if the stay of execution is not granted.
6. Check (✓) this box if you wish to invoke urgency for the purpose of asking the judge to order a stay of execution of the judgment even if prior notice of the application has not been served on the prosecutor.

#### CONCLUSIONS

- ▶ Indicate the purpose of the application by checking (✓) the appropriate box or boxes.
- ▶ Sign the application for revocation of judgment and stay of execution.

#### BACK OF THE FORM

##### ▶ **Sworn Statement or Solemn Affirmation**

Fill out the section “*Sworn Statement or Solemn Affirmation*” and have it signed by a commissioner for oaths who will, if need be, help you fill it out.

The following persons are authorized to take oaths: commissioners, court clerks and their assistants, lawyers, notaries and justices of the peace. Mayors and municipal clerks and secretary-treasurers can also take oaths, but only within the limits of their municipality.

##### ▶ **Prior Notice**

In the section “*Prior Notice*”, indicate the name and address of the prosecutor. You must also obtain from the court clerk the date, time and number of the room where your application will be heard and enter this information in the prior notice.

#### SERVICE OF THE APPLICATION

You must serve your application on the prosecutor at least five clear days before the date of its presentation to the judge. Once your application has been served, you must also file it with the office of the court at least five clear days before its presentation to the judge residing where the judgment was rendered or to the judge residing in the district where proceedings were instituted. *(When the time period is expressed in clear days, date of receipt and date of presentation of the application are not taken into account.)*

The application can be served by sending the copy marked “*Respondent*” to the prosecutor by recommended or priority mail, or by delivering it to the prosecutor by bailiff. You can also deliver a copy of it yourself (by hand) to the prosecutor, who will give you a signed, dated receipt marked “*Copy received in lieu of service*”.

In certain urgent circumstances, you can ask the judge to be excused from serving your application for a stay of execution (see section 6 of the application).

#### SERVICE OF THE DECISION GRANTING YOUR STAY OF EXECUTION

You must serve a copy of the decision of the judge who grants your application for revocation of judgment and stay of execution on the bailiff charged with executing the judgment. The stay of execution is granted on condition that the bailiff is so served.

**We suggest you consult an attorney  
if you need further information.**

CANADA  
Province of Québec  
District \_\_\_\_\_  
Locality \_\_\_\_\_  
File number \_\_\_\_\_  
Statement number \_\_\_\_\_

**COURT OF QUÉBEC**  
Criminal and Penal Division  
Youth Division  
Justice of the peace

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

and

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(family name, given name, date of birth, address and postal code)

**Applicant**

(family name, given name, address and postal code of prosecutor)

**Respondent**

## **Application for Revocation of Judgment and Stay of Execution**

*Application for cancellation of a default judgment of conviction and for suspension of execution of the judgment  
(sections 250 and 255 of the Code of Penal Procedure)*

TO A JUDGE OF THIS COURT OR TO A JUSTICE OF THE PEACE, THE APPLICANT STATES THE FOLLOWING:

### **FACTS:**

- 1 I was convicted by default on \_\_\_\_\_ in the above file.  
(date of judgment)
- 2 I acquired knowledge of this judgment of \_\_\_\_\_  
(date on which you acquired knowledge of the judgment convicting you)  
 I ask that the consequences of my delay in presenting this application within 15 days after the date on which I acquired knowledge of the judgment be cancelled. I was unable to do so in time because:  
*(Explain why it was impossible for you to present your application in the time allowed.)*  
\_\_\_\_\_  
\_\_\_\_\_
- 3 I was unable to appear in court to defend myself, for the following reasons:  
*(The explanation must be convincing and serious.)*  
\_\_\_\_\_  
\_\_\_\_\_
- 4 I contest the merits of the judgment of conviction rendered against me because:  
*(Briefly describe the nature of your contestation.)*  
\_\_\_\_\_  
\_\_\_\_\_
- 5  I ask that the judgment execution proceedings be stayed for the following reasons:  
*(indicate the nature of the irreparable prejudice you might suffer if the execution is granted.)*  
\_\_\_\_\_  
\_\_\_\_\_
- 6  I ask to be excused from serving on the prosecutor prior notice of the application for stay of execution of judgment, for the following reasons: *(Specify the urgency.)*  
\_\_\_\_\_  
\_\_\_\_\_

### **FOR THESE REASONS, I ASK:**

- to be relieved of the consequences of my delay in presenting the application for revocation of judgment;
- that my application for revocation of judgment be allowed;
- to be excused from serving prior notice of the application for stay of execution of judgment because of an urgency;
- that my application for stay of execution revocation of judgment undo be allowed;
- TO PROCEDE immediately with the trial or to have it adjourned to a later date.

In \_\_\_\_\_, on \_\_\_\_\_

Applicant

### **DECISION**

In \_\_\_\_\_, on \_\_\_\_\_

# Sworn Statement or Solemn Affirmation

I, the undersigned, \_\_\_\_\_ ,  
holding the occupation of \_\_\_\_\_ ,  
and domiciled at (*address and postal code*) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

declare under oath the following:

or

solemnly affirm the facts below. I make this solemn affirmation, conscientiously believing it to be true and knowing it has the same force and effect as if made under oath.

1. I am the applicant.
2. I attest that the facts given in the application are true.

And I have signed \_\_\_\_\_  
Applicant

Sworn before me

Solemnly affirmed before me

In \_\_\_\_\_ , on \_\_\_\_\_

\_\_\_\_\_  
Person authorized to take oaths  
or solemn affirmations

## Prior Notice

Name of prosecutor \_\_\_\_\_

Address \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

TAKE NOTICE that this application for revocation of judgment will be presented at the courthouse of \_\_\_\_\_ ,  
in room \_\_\_\_\_ , on \_\_\_\_\_ , at \_\_\_\_\_ a.m./p.m.

TAKE NOTICE that this application for a stay of execution will be presented at the courthouse of \_\_\_\_\_ ,  
in room \_\_\_\_\_ , on \_\_\_\_\_ , at \_\_\_\_\_ a.m./p.m.

\_\_\_\_\_  
Applicant