

# 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 Quebec 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 defense are believed to be serious. The judge can also order, on application, a stay of the judgment execution proceedings.

**NOTICE: THE MUNICIPAL COURT EMPLOYEES CAN'T HELP YOU COMPLETE THIS REQUEST. We suggest you consult a lawyer for any additional information**

### **■ WHERE IS THE APPLICATION TO BE FILED ?**

The application must be filed at the office of the court located at:

**100 boul. Montcalm Nord, 2<sup>nd</sup> floor, Candiac (Québec), J5R 3L8**

### **■ 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 3 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 section 6 of the application.

### **■ WHAT HAPPENS OF 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 Société de l'assurance automobile du Québec*.

### **■ 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 municipal court employees will inform you of the amounts payable.

Fees are payable by postal money order or certified check made out to the Municipale Court of *Candiac*, or in cash or debit card by presenting yourself in person and this, **BEFORE** the date of presentation.

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

## How to fill out the application

Complete the heading and present the facts and the conclusions sought in the attached application. On the second page of the form, be sure to fill out the sections “Solemn Affirmation” and “Presentation Notice”.

### PAGE ONE OF THE APPLICATION

#### ■ HEADING

- Enter the file number specified on the notice of judgment.
- Enter your family name, given name and date of birth in the space provided for the applicant.
- Check (✓) the box identifying 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 (refer to the notice of judgment).
2. Specify the date on which you acquired knowledge of the judgment convicting you..
3. If you exceed the 15 days allowed for filing your application for revocation of judgment, explain why it was impossible for you to present your application in the time allotted.
4. Explain why you were unable to appear in court to defend yourself. The reasons for not presenting your defence must be convincing and serious.
5. Briefly explain why you are contesting the merits of the judgment rendered against you.
6. Complete this section 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.

#### ■ 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.

### PAGE 2 OF THE APPLICATION

#### ➤ Solemn Affirmation

Fill out the section “Solemn Affirmation” and be sure to sign it before a commissioner for oaths, who will also have to sign said affirmation.

The following persons are authorized to take oaths: commissioners, court clerks and their assistants, lawyers, notaries and justices of the peace.

#### ➤ Presentation Notice

In the section “Presentation Notice”, sign where indicated, to confirm the date and time given by the court clerk for the hearing of your application. You will have to be present at that date and time.

#### ■ FILING OF THE APPLICATION

You must serve your request to the prosecutor at least five (5) clear days before the date of presentation to the judge. Once your application has been served, you must also file it at the court registry at least (5) clear days before the date of its presentation to the judge of the place where the judgment was rendered or to the judge of the place where the prosecution was brought. (When a period is expressed in days, the day of receipt of the application, or the days of its presentation are not calculated.)

Service may be made by registered mail, priority mail or bailiff by sending the identified copy "Respondent Party" of this application to the prosecutor. You can also replace this service by handing (personally) the copy of your application to the prosecutor who will have to give you a signed and dated receipt bearing the note "Receipt copy to be meaningful

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

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