



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-THIRD LEGISLATURE

Bill 33

An Act to amend the Code of Civil Procedure in respect of the collection of support payments

Introduction

**Introduced by
Mr Herbert Marx
Minister of Justice**

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EXPLANATORY NOTES

This bill amending the Code of Civil Procedure is designed to give the collector of support payments a more effective role in collecting such payments.

To that end, the bill provides that the collector of support payments will not only act as seizing creditor, as is now the case, but will also collect all overdue and future payments of support.

The debtor of the judgment awarding support will be required to pay directly to the collector all overdue payments and every ensuing payment as it becomes due, for as long as the collector remains in charge of collecting the support.

Other provisions of the bill deal with the service of any subsequent judgment on the collector and with the determination of the period during which he is to remain in charge of collecting the support.

Finally, the bill proposes an amendment to the Social Aid Act for concordance purposes.

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THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. The Code of Civil Procedure (R.S.Q., chapter C-25) is amended by inserting, after article 553.2, the following:

“SECTION IV

“COLLECTOR OF SUPPORT PAYMENTS

“553.3 Where a support payment is not paid when due, the creditor of the judgment awarding support may obtain, on application, that a collector of support payments appointed by the Minister of Justice be charged with collecting such support payments, including the arrears and payments to become due.

“553.4 The creditor may apply to the collector of support payments in the district in which the judgment awarding support was rendered or in the district of his residence, by filing in the record a certified true copy of the judgment and an affidavit indicating

(a) his surname, given name and residential address;

(b) the surname and given name of the debtor and, if known, his residential address, the name of his employer and the place where he works, and a description of his movable and immovable property;

(c) the date of the default of the debtor, the amount of support, the amount of arrears and a statement of the payments to become due, if any.

“553.5 Where the application is made in a district other than the district in which the judgment was rendered, the collector of support payments receiving the application forwards the documents mentioned in article 553.4 to the collector of the district in which the judgment was rendered so that the latter may be in charge of collecting the support.

Where the application concerns a foreign judgment that has become executory in Québec by deposit or by registration, the collector of support payments of the district in which the judgment was filed or registered is in charge of collecting the support.

“553.6 From the time the debtor is informed that the collector of support payments is in charge of collecting the support, the debtor shall pay directly to him the arrears and all subsequent support payments as they become due.

The debtor may make an opposition to a seizure on the ground that he subsequently made a payment directly to the creditor rather than to the collector; in that case, however, the costs of the seizure and opposition are borne by the debtor, even if the opposition is allowed.

“553.7 The collector of support payments may act as seizing creditor for the judgment creditor both in respect of the arrears at the time of the application and in respect of any arrears accrued from that time; he may effect any seizure contemplated in Chapter IV of this title.

The collector may also enter any proceeding aimed at favouring the execution of the judgment and exercise the powers granted to the creditor under Section I of this chapter.

“553.8 Except in the case provided for in article 641.2, any judgment revising a judgment which awarded support that is rendered while the collector of support payments is in charge of collecting support must be served on the collector. Service may be made by registered or certified mail.

If an opposition to a seizure made by the collector is allowed by reason of a judgment that was not served on him as required, no costs of opposition or costs of seizure, if any, may be charged to him.

“553.9 The collector of support payments remains in charge of the collection of support until a period of one year has expired after

the payment of all arrears due at the time of the application by the creditor and accrued thereafter.

If the creditor of support is a recipient of social aid pursuant to the Social Aid Act (R.S.Q., chapter A-16), the collector remains in charge of collecting the support until the expiry of the period contemplated in the first paragraph or until the date he receives from the Minister of Manpower and Income Security a notice stating that the creditor has ceased to receive social aid, whichever occurs last.

Notwithstanding the foregoing, the collector ceases to be in charge of collecting the support from the time he is notified, by way of a judgment, that the debtor has been released from the payment of all arrears by reason of which the collector remained in charge of collecting the support or that the debtor has been released from payment of support and that no arrears were due at the time of the release.

“553.10 The Government, by regulation, may require the debtor to pay costs relating to the collection of arrears, whether they were due at the time of the application by the creditor or accrued thereafter, and establish the tariff of costs. The costs can only be collected once all arrears have been paid.”

2. The said Code is amended by inserting, after article 625, the following article:

“625.1 A writ of seizure by garnishment for the execution of a judgment awarding support may be served by registered or certified mail.”

3. Article 641.1 of the said Code is amended by replacing the second paragraph by the following paragraph:

“If there is no other claim in the record and if execution has not been suspended in accordance with article 659.5, no release may be given

(a) until one year after the arrears of support, including any arrears accrued from the time of the seizure, have been paid, where no collector of support payments is in charge of collecting the support;

(b) for so long as the collector of support payments remains in charge of collecting the support, where such is the case.”

4. Article 641.2 of the said Code is amended

(1) by replacing the words “amends the amount of” in the first line by the words “revises a judgment awarding”;

(2) by replacing the word “amended” in the fourth line by the word “revised”.

5. Section IV.1 of Chapter IV of Title II of Book IV of the said Code, comprising articles 659.1 to 659.4, is repealed.

6. Article 659.5 of the said Code is amended

(1) by replacing the words “to pay directly to him the payments of support when due” in the fifth and sixth lines of the first paragraph by the words “to pay the support payments when due directly to the prothonotary or, if the collector of support payments is in charge of collecting the support, directly to him”;

(2) by adding, at the end of the second paragraph, the words “or, where applicable, for the entire period during which the collector of support payments remains in charge of collecting the support”.

7. Article 659.6 of the said Code is amended by adding, at the end, the following sentence: “Where applicable, the prothonotary also informs the collector of support payments.”

8. Article 659.7 of the said Code is amended by inserting, after the word “prothonotary” in the second line, the words “or, as the case may be, the collector of support payments”.

9. Article 661.1 of the said Code is repealed.

10. Article 662 of the said Code is amended by striking out the words and figure “under article 661.1” in the second line of the second paragraph.

11. Section 13.2 of the Social Aid Act (R.S.Q., chapter A-16) is amended by striking out the words and figures “article 659.3 or 661.1 of” in the second line of the first paragraph.

12. The provisions of this Act do not apply to any application to the collector of support payments made pursuant to articles 659.1 and 659.2 of the Code of Civil Procedure.

Notwithstanding the foregoing, if the collector of support payments is still in charge of the case, the creditor of support who made the application may request that the collector act pursuant to the provisions

of this Act. In that case, the provisions of this Act become applicable upon the service of a notice to that effect by the collector of support payments upon the debtor of support. Service may be made by registered or certified mail.

13. The provisions of this Act come into force on the date or dates fixed by the Government.