

Maintenance Enforcement Program

Default Hearings

What is a default hearing?

A default hearing is a court process held before a Master of the Court of Queen's Bench. A Master takes the place of a judge and is able to issue some court orders. The *Maintenance Enforcement Act* allows the Maintenance Enforcement Program (MEP) to serve a summons on debtors with outstanding maintenance payments requiring them to appear before the court to:

- show the court why their maintenance order should not be enforced
- be examined under oath about their finances
- argue against imprisonment for wilfully defaulting on a court order

What is MEP's role in a default hearing?

- MEP may schedule default hearings when other collection efforts have not been successful, and MEP believes that debtors may have the ability to pay support but have not done so
- When a hearing date is obtained from the court, MEP issues a summons telling debtors when and where to appear in court
- MEP's goal is to increase its collections to support Alberta children. On occasion, interim (short-term) payments may be negotiated that are less than the ongoing payments actually due under court orders or agreements. This in no way changes the amount of maintenance actually due and does not stop MEP from collecting more funds, if possible
- Whether or not payment arrangements are accepted, MEP may ask the court to require debtors to complete a Statement of Finances (catalogue #99011), supply income tax returns and notices of assessment, and provide other proof of income or assets
- MEP's lawyers represent it at default hearings. If full hearings proceed, MEP's lawyers and the Master question debtors under oath

Please note:

- A default hearing can be the start of a lengthy court process. A full hearing often does not proceed on the first court date, so preliminary negotiations may occur or Masters may ask debtors for additional information for another court date. The court may also grant debtors an adjournment to hire legal counsel if counsel is unavailable or debtors wish to request changes to their support order
- Masters cannot change the terms of maintenance orders at default hearings
- MEP does not provide legal representation for creditors or debtors wishing to change their support orders in court

Can creditors attend default hearings?

Default hearings are held in open court. Creditors may attend, but this is not required. Creditors should be aware that matters do not always go ahead as scheduled and that Masters do not normally allow creditors to speak at hearings. MEP provides creditors with advance notice when a full default hearing (not just docket day appearance) is scheduled. If creditors intend to attend, they should phone MEP ahead of time to ensure that matters are expected to proceed as scheduled.

How can creditors help MEP?

Creditors can assist by supplying MEP with all the information they have about debtors, such as debtor income, location, employment or assets, changes regarding the status of children, or any direct payments they receive from debtors. This information should be provided directly to MEP in advance of any default hearings.

What happens if debtors do not attend default hearings?

Once debtors are served with the summons to court, they are legally required to attend default hearings. If they do not, warrants can be issued by the court. Under certain types of warrants, debtors are taken into custody.

This document is part of a series of MEP information sheets that can be obtained in the following ways:

- MEP's website at www.albertamep.gov.ab.ca
 - MEP's fax-on-demand service on the *MEP Info Line* by calling 780-422-5555 and using the catalogue number of the information sheet you wish to request
- * **Toll-free** service to all Government of Alberta phone numbers is available from anywhere in Alberta by calling 310-0000 and following the voice prompts