

Default Hearings

A default hearing is a court process held before an Applications Judge of the Court of King's Bench. An Applications Judge is able to issue some court orders. The *Maintenance Enforcement Act* allows the Maintenance Enforcement Program (MEP) to serve a summons on payors 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

The MEP's role in a default hearing

- The MEP may schedule default hearings when other collection efforts have not been successful, and the MEP believes that payors may have the ability to pay support but have not done so
- When a hearing date is obtained from the court, the MEP issues a summons telling payors when and where to appear in court
- The 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 the MEP from collecting more funds, if possible
- Whether or not payment arrangements are accepted, the MEP may ask the court to require payors to complete a Statement of Finances, supply income tax returns and notices of assessment, and provide other proof of income or assets
- The MEP's lawyers represent it at default hearings. If full hearings proceed, the MEP's lawyers and the Judge question payors 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 an Applications Judge may ask payors for additional information for another court date. The court may also grant payors an adjournment to hire legal counsel if counsel is unavailable or payors wish to request changes to their support order
- An Applications Judge cannot change the terms of maintenance orders at default hearings
- The MEP does not provide legal representation for recipients or payors wishing to change their support orders in court

Attending default hearings - Recipients

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

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

Attending default hearings - Payors

Once payors 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, payors are taken into custody.

- The MEP has other Information Sheets, on a variety of helpful topics. To see them, visit the MEP's website at alberta.ca/mep
- To contact the MEP, phone 780-422-5555 or toll-free in Alberta at 310-0000.
- To view information about your MEP file, go to the MEP's website at alberta.ca/mep and select "MEP Accounts Online"