

MODEL ESTABLISHED BY THE MINISTER OF JUSTICE

**Notice accompanying an application
relating to the personal integrity, status or
capacity of a person of full age or a minor
14 years of age or older**

**Application presented before the court
(article 393 C.C.P.)**

Right to personal integrity

A party cannot require you to undergo a physical or mental examination unless your physical or mental condition must be considered in order to rule on a judicial application. Even in such a case, the physical or mental examination must be warranted given the nature, complexity and purpose of the judicial application.

Right to be heard

Before making a decision, the court must hear you in person to allow you to make representations, give your opinion or answer questions. However, if it is impossible or clearly inexpedient to hear you because of the urgency of the situation or your state of health, or if it is shown that requiring you to testify could be harmful to your health or safety or that of other persons, the court is not required to hear you.

If the application concerns the provision of care or the alienation of a body part and if you refuse, the court must respect your refusal unless the care is required by your state of health.

Right to be represented

If the application follows contentious proceedings, you may be represented by a lawyer. If it follows non-contentious proceedings, you may be represented by a lawyer or notary.

If you are not represented by a tutor or mandatary, the court may order the appointment of a lawyer to represent you if it considers you incapable and considers it necessary to safeguard your rights and interests. The court will rule on the lawyer's fee, depending on the circumstances.

Right to be assisted

If you are a minor or an incapable person, you may be accompanied by someone capable of providing assistance or reassurance when the court is to hear you.

If a hearing concerning your personal integrity or capacity takes place *in camera*, you may be accompanied by someone capable of providing assistance or reassurance. However, if circumstances so require, the court may exclude such persons to prevent serious prejudice to a person whose interests may be affected by the application or by the proceeding.

Right to privacy

Access to documents pertaining to your health or psychosocial situation is restricted if they have been filed in the court record in a sealed envelope. The documents may only be consulted or copied by the parties, by their representatives, by lawyers and notaries, by persons designated by law, and by any person, including a journalist, who has been authorized by the court after proving a legitimate interest, subject to the access conditions and procedure determined by the court.

Recourse against a judgment

If a decision concerning your capacity is rendered by a special clerk, an application for review may be filed at the office of the court within 10 days after the date of the decision.

A judgement or order made concerning this application may be appealed within 30 days after the date of the notice of judgment or after the date of the judgment if it was rendered at the hearing.

However, the time limit for appealing a judgment is:

- 10 days if the appeal concerns a judgment refusing your release or if the appeal is presented by a party that wishes to join an appeal that was presented previously;
- 5 days if the appeal concerns a judgement ordering your release, granting an application for authorization affecting your personal integrity or ordering you to be held in custody in order to undergo a psychiatric assessment or following a psychiatric assessment.

You can request the review of a judgment concerning your personal integrity or capacity when you, or any interested party, are able to present new facts sufficient to result in the varying of the judgment.

Legal costs

If the application concerns your capacity, you will bear the legal costs unless the court decides otherwise.