



WHY IS SOCIAL ASSISTANCE FORCING ME TO INSTITUTE PROCEEDINGS FOR SUPPORT?

Marie is a single mother; Simon has been separated from his wife for five years; Paul has been divorced for a few years; Chantale is an 18-year-old who could not get along with her parents, left school and the city of Chicoutimi, where she was born, and moved to Montreal to look for work. All of them recently filed an application for financial assistance with the Ministère de l'Emploi et de la Solidarité sociale. In response, each of them received a letter from the Ministère requesting proof that they will institute proceedings for support. Marie must institute proceedings for support against the father of her child, Simon and Paul must ask for support from their former spouses, and Chantale must ask for a parental contribution from her parents. "Things are calm right now. Why stir up trouble?" they ask their lawyer.

Since social assistance is last resort assistance, assistance will not be granted if the applicants refuse or fail to institute proceedings to assert their right to support or another right. When proceedings are instituted, the Ministère can even intervene in the dispute as an interested party¹:

"63. An independent adult or the members of a family must exercise their rights or take advantage of other statutory benefits when the exercise of such rights or the receipt of such benefits would affect the adult's or the family's eligibility for a financial assistance program, or reduce the amount of assistance..."

Married or civil union spouses, and relatives in the direct line in the first degree, owe each other support (article 585 of the *Civil Code of Québec*).

Marie has looked after her child on her own since he was born. However, the birth certificate contains the name of the biological father. Thus, the child has rights he can assert against his biological father and, in particular, the right to claim support from him.

Given that Simon is not divorced, his wife owes him support.

As for Paul, he has a divorce judgment that does not mention anything with respect to the support owed between the spouses. Therefore, his lawyer will have to analyze the file and the situation of the parties in order to assess the likelihood of success of proceedings for support.

Until recently, Chantale was living with her parents in Chicoutimi. She left school after getting her high school diploma and has never worked full time. Pursuant to section 57 of the *Individual and Family Assistance Act*, she will be deemed to be receiving a parental contribution if she does not institute proceedings against her parents. Usually, the parental contribution is calculated by taking into account the situation of the parents and the income obtained pursuant to the application of sections 152, 153 and 154 of the *Individual and Family Assistance Regulation*.² The amount determined as a parental contribution is a resource that will be taken into account in computing the last resort financial assistance benefit to be paid to Chantale. If Chantale's parents do not cooperate with her, she will have to sue them for support.

¹ *Individual and Family Assistance Act*, R.S.Q., c. A-13.1.1.

² R.S.Q., c. A-13.1.1, r. 1.

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* The information set out in this document is not a legal interpretation.

The masculine is used to designate persons solely in order to simplify the text.