



The Provincial Court of Saskatchewan

PRACTICE DIRECTIVE V

Application for Court-appointed Lawyer – Criminal Cases

BACKGROUND

In Saskatchewan, a person may be represented by a lawyer who is privately retained and paid for legal services, by a Legal Aid lawyer, or by a lawyer appointed by the Court.

Any person charged with a criminal offence who wishes to have a lawyer appointed to represent them may make an application to the Court for legal representation. An application for a court-appointed lawyer arises under ss. 7 and 11(d) of the *Canadian Charter of Rights and Freedoms*, which guarantee an accused person the right to a fair trial. If an application for a court-appointed lawyer is successful, the Court may grant a remedy pursuant to s. 24(1) of the *Canadian Charter of Rights and Freedoms*, staying the criminal proceedings pending the appointment of a lawyer.

In order to succeed on an application for a court-appointed lawyer, an individual must establish, on a balance of probabilities, they have been denied Legal Aid, cannot afford a lawyer, and could not receive a fair trial without a lawyer representing them. In determining whether the individual could not receive a fair trial without a lawyer, the Judge will consider the seriousness of the charge, the complexity of the case, and the individual's personal circumstances.

An application for a court-appointed lawyer is made in the manner set out in s. 15.3 of the *Constitutional Questions Act, 2012* and in the form prescribed by the *Constitutional Questions Regulations* (Form A and Form B).

APPLICATION PROCESS

1. An individual must apply for Legal Aid and receive a written notice that Legal Aid will not represent them before they can apply for a court-appointed lawyer.
2. To apply for a court-appointed lawyer, complete the Notice of Application for a Court-appointed Lawyer (Form A). You should attach to Form A the letter you received from Legal Aid Saskatchewan stating that you are not eligible for Legal Aid.

3. If you do not have a letter from Legal Aid Saskatchewan stating that you are not eligible for Legal Aid, or, if you have a letter from Legal Aid Saskatchewan but have not included it with Form A, you must complete the Waiver (Form B).
4. You must deliver your application for a court-appointed lawyer to the Provincial Court location that will be hearing your application. Once the Court receives your completed application, the Court will set a date for your application to be heard. You do not need to serve the application. Court Services will ensure it is served on the Attorney General of Canada and the Attorney General for Saskatchewan. The date set for the hearing of your application for a court-appointed lawyer must be at least 14 days after the date that your application is served on the Attorney General of Canada and the Attorney General for Saskatchewan.
5. In certain circumstances, the notice and service requirements set out above do not apply. Pursuant to s. 15.3(4) of the *Constitutional Questions Act, 2012*, there are no notice requirements for an application for legal representation with respect to sentencing for summary conviction matters or summary bail applications.
6. You must attend the hearing of your application for a court-appointed lawyer. A lawyer for the Attorney General of Canada and/or the Attorney General for Saskatchewan may appear at the hearing and may oppose your application. You may be asked questions under oath. After the hearing, the judge will decide whether to grant your application.
7. If the judge grants your application for a court-appointed lawyer, it is possible that the judge could also order you to make a financial contribution (Form C).
8. An Information Booklet entitled "How to Apply for a Court-appointed Lawyer" has been prepared by Court Services and contains additional detail and information. Please consult the Information Booklet for further information.

FORM A
[Clause 3(1)(a)]

PART 1

Notice of Application for Court-appointed Lawyer

This notice is given pursuant to section 15.3 of *The Constitutional Questions Act, 2012* (Saskatchewan).

(Print your Full Name including middle name)

Contact Information:

Address _____
Telephone _____
Email (optional) _____
Date of Birth _____

Take notice that I make application to obtain a remedy pursuant to section 24(1) of the *Canadian Charter of Rights and Freedoms* and ask that this application be heard on my next appearance before the Court on

_____ at _____ in _____, Saskatchewan,
(Month/Day/Year) (Time) (City/Town)

At (check which Court you will be attending):
 Provincial Court
 Court of Queen's Bench

Below, I have listed all of the charges and/or information numbers for which I seek a lawyer to represent me:

1. Will Legal Aid Saskatchewan assign a lawyer for you? YES NO

If you answered "Yes", please note that the Court may decide that you do not qualify for a court-appointed lawyer if Legal Aid Saskatchewan is available to represent you.

2. Attached to my application is a copy of: *(check one)*

- Notice of Ineligibility from Legal Aid Saskatchewan.
- Notice of Termination from Legal Aid Saskatchewan.
- Notice of Denial from Legal Aid Saskatchewan.
- Other *(please explain)* _____

Please ensure that a copy of the letter you received from Legal Aid Saskatchewan is attached to your application.

3. Why do you believe that you need a lawyer to represent you? *(Check all that apply)*

- I have no money to hire a lawyer.
- I do not feel capable of representing myself.
- The Crown has said that it may seek a jail sentence if I am found guilty.
- I believe this is a complex matter.
- Other *(please explain)* _____

Date

(Sign above the line)

(Print your name)

Part 2

Financial Information

Are you currently in a correctional centre? Yes No

If you are currently in a correctional centre and do not earn any income, you may not need to provide detailed financial information.

Number and Ages of Dependents: _____

Income

Do you receive social assistance? YES NO

Do you receive Band assistance? YES NO

If you receive social assistance or Band assistance, you do not need to complete the remainder of this Form.

Amount (\$)

Monthly Salary after deductions
(Please bring pay stubs to prove these amounts) _____

Total Household Income _____

Other Sources on Income *(Other sources of financial support, including family)* _____

Total Income: _____

Expenses

Amount (\$)

Rent/Mortgage

Utilities

Child Care

Food

Clothing

Transportation

Debits or Debt Payments

Child / Spousal Support you pay

Other (*Specify*)

Other (*Specify*)

Other (*Specify*)

Total Expenses:

Assets

Value (\$)

Cash / Savings

Stocks / Shares / Bonds / RRSP /etc.

Accounts Receivable (*Money owed to you*)

Property / Real Estate

Vehicles (*Specify*)

Farm Assets

Business Assets

Other (*Specify*)

Other (*Specify*)

Other (*Specify*)

Total Assets:

FORM B

[Clause 3(1)(b)]

Waiver

(Complete this waiver if you do not have a letter from Legal Aid Saskatchewan or if you have not included the letter with your application for a court-appointed lawyer.)

I, _____ of _____, Saskatchewan,
(Print Name) *(City / Town)*

Hereby authorize and direct Legal Aid Saskatchewan and its lawyers involved in my representation to release to:

- (a) the Court dealing with my charges;
- (b) the Attorney General of Canada;
- (c) the attorney General for Saskatchewan (Court Services); and
- (d) _____;

Any written notices outlining my status with Legal Aid Saskatchewan, including:

- (1) any Notice of Ineligibility;
- (2) any Notice of Termination; and
- (3) any Notice of Denial;

For my application for court-appointed lawyer on _____
(Month/Day/Year)

at _____ at _____, Saskatchewan.
(Address of Courthouse) *(City/Town)*

Date

(Sign above the line)

(Print your name)



FORM C

PROVINCIAL COURT OF SASKATCHEWAN

Order for Financial Contribution to Court-appointed Counsel

In the matter of R v. _____

Information(s): _____

Charge(s): _____

Before The Honourable Judge _____

THE COURT ORDERS THAT:

_____, you are ordered to pay \$_____ per month directly to your Court-appointed Counsel. Your contribution payments will be paid on the _____ day of each month, beginning _____, and continue until the matter is concluded or until this Order is changed or cancelled by further Order of this Court.

You must notify your Court-appointed Counsel of any changes in your financial circumstances until this matter is concluded.

DATED the ____ day of _____, 20____ at _____, in the Province of Saskatchewan.

Judge / Clerk of the
Provincial Court of Saskatchewan

NOTICE:

If you fail to make the required payment(s) on time, Court-appointed Counsel will notify Court Services. The issue of nonpayment may be brought back to Court for hearing and could result in amendment or cancellation of the Order for Court-appointed Counsel.