

SARPA

Service Administratif de Rajustement des Pensions Alimentaires Pour Enfants

What is the SARPA?

SARPA (Quebec's child support recalculation service, officially known as the *Service administratif de rajustement des pensions alimentaires pour enfants*) is an administrative service that allows parents of a minor child to request a modification to an existing judgment that pertains to child support. This service – available since April 1, 2014 – is affordable, available to all parents regardless of income, and is rendered quickly, without having to go to court, therefore allowing better access to justice with respect to family law.

Who can apply to the SARPA?

Both or one of the parents of a minor child can submit an application to the SARPA for the recalculation of child support payments.

It must be noted that the SARPA is a recalculation service of child support payments that have already been determined by judgment. Only the amount of the payment can be modified. If the child support payment must be recalculated following a custody change, the SARPA is not the appropriate administrative recourse; parents may be eligible for the Homologation Assistance Service (HAS) instead.

To benefit from the SARPA, candidates must meet the following criteria:

- ✓ You are a Quebec resident and are the parent of a minor child;
- ✓ You have obtained a Court-ordered judgment pertaining to child support of a minor or have previously obtained a recalculation of child support via the SARPA;

- ✓ The tribunal must not have determined an amount of child support payments that differs from the amount calculated under the Quebec's Child Support Determination Form due to the significance of either parent's assets, the extensiveness of resources available to the child, or the payments calculated according to the Child support determination form would result in excessive hardship to either parent;
- ✓ The Tribunal must not have been required to establish the income of either parent due to incomplete or contested information on the form in Schedule 1 (Quebec's Child Support Determination Form);
- ✓ The annual disposable income of both implicated parents must not be superior to \$200,000;
- ✓ The salary of the parent paying support must not have decreased because of a strike or lockout, unless both parents agree on this;
- ✓ Neither parent must receive income from an enterprise of which he/she is the administrator, director, or partner, unless there is an agreement between parents regarding their income;
- ✓ Neither parent must receive income comprised of anything other than a salary, pension plan or indemnity compensation, employment insurance, parental insurance benefits or support/alimony paid by a third party, unless there is an agreement between parents regarding their income;
- ✓ There must be no legal proceedings pending between the parties and no judgement may suspend the payment of support;
- ✓ If the recalculation is requested because of a decrease in income, said decrease must not be caused by any of the following reasons:
 - Maternity leave, paternity leave, or adoption leave;
 - Sabbatical leave, leave without pay, leave with deferred pay or any other alternative work schedules;
 - Change of career or return to studies;
 - Voluntary job resignation;
 - Retirement

PLEASE NOTE

In order to recalculate child support payments, the parents' situation must be simple. If parents request the consideration of other factors such as special expenses, daycare expenses or the modification of custody time, then both parents must agree on the terms. Failing an agreement, a recalculation request to the SARPA will not be possible.

Examples of SARPA-inadmissible situations

Court procedures

Example 1

Within the context of divorce procedures, Véronique obtained a temporary court-ordered judgment that granted her custody of her child along with child support. Her husband's financial situation has since changed and she wants to revise the support payments. The recalculation of child support payments is not possible because the divorce procedures have not been finalized at court and the final divorce judgment has not been rendered.

Contested income

Example 2

Sebastien owns his own renovation company and Clémence believes he is hiding his actual income. A recalculation of support payments is not possible by the SARPA since Sebastien's income is disputed.

Support amount differs from the model established by the Regulation Respecting the Determination of Child Support Payments

Example 3

When the Court established the child support amount that Jean must pay for his two children, it had also taken into consideration the two other children that he had fathered in another civil union with his new spouse. A recalculation of support payments is not possible because the Court determined an amount that differs from the one provided for in the model established by the Regulation Respecting the Determination of Child Support Payments.

How can I access the SARPA?

The Legal Services Commission (*Commission des services juridiques – CSJ*) is the organization responsible for administering the child support recalculation service.

You can reach the SARPA by phone at 1-855-LeSARPA (1-855-537-2772) throughout Quebec or 514-873-3563 within Montreal, or visit the SARPA online at www.sarpaquebec.ca for more information and to obtain the necessary forms to open a file. Please note that paper copies of the application form are also available in person at Legal aid offices across Quebec.

It is necessary to complete the information form in order to have your application processed by the SARPA. Once the form has been filled out, it must be submitted to the SARPA online along with proof of income documents and a copy of the last judgment or last adjustment establishing child support.

The application may also be returned in person to a Legal aid office.

PLEASE NOTE

The following documents are required for the SARPA:

- ✓ A copy of the last judgment or last adjustment establishing child support
- ✓ The Quebec Child Support Determination Form annexed to the judgment or review
- ✓ The SARPA application form
- ✓ Proof of income documents

What are the costs?

If your SARPA application is accepted, you will have to pay \$278. This fee is determined by regulation and subject to change. This fee is shared between parents when a joint application is filed and may be paid for by cash or credit card in person at a Legal aid office.

PLEASE NOTE

Individuals who are financially eligible for Legal aid services either have free access to the SARPA or access for a maximum fee of \$278 Half of this cost may be reimbursed if the SARPA, following file review, concludes that support payments cannot be recalculated when only one parent submits an application.

How are applications processed at the SARPA?

Once your payment is made, your application will be processed in the following manner:

In the event that one parent files the application

When a recalculation request from one parent is received and approved, the SARPA sends a proof of income request by mail to the other parent.

The SARPA has the right to inquire about income. A response must be provided within thirty (30) days following receipt of the request.

If the recipient fails to respond within the 30-day delay, a second notice is sent by registered or certified mail, or by any other means that will provide proof of the date of receipt. The delay allocated to respond to a second notice is ten (10) days from the date of receipt.

PLEASE NOTE

The SARPA has the power to attribute an increased income from the last known annual income. The increase of income is of 15 % or more depending on the circumstances and is determined by regulation

In the event that both parents file a joint application

Once the SARPA receives an application from both parents, each parent must confirm the joint application for service. Via the SARPA website, each parent must fill out a portion of the form. Then, each parent must complete a paper application in writing and sign it. Each parent must fill out the information form and provide necessary documents.

PLEASE NOTE

Even if the application to the SARPA is made jointly by both parents, either parent may request to have the service withdrawn. This withdrawal request must be made in writing and submitted online or remitted to a Legal aid office.

How will support payments be recalculated?

The SARPA calculates the child support amendment based on the *Table to determine the basic parental contribution*. In order to perform the calculation, the SARPA takes into account known or determined income of parents at the time of the request.

In certain circumstances, it may also be possible to retroactively adjust child support to one year preceding the recalculation request date as long as the parents' income is known and documented.

When will the new amount of child support take effect?

Once the parents' income is known or determined and the recalculation of child support is completed, the SARPA will mail a notice to both parents informing them of the amended support amount.

A parent who does not agree with the revised amount may contest the modification by filing a motion in court. However, it must be proven that this dispute is based on serious motives since the SARPA abides by the table of regulations and does not exercise any judicial scrutiny. The motion will consist of a request for an amendment to child support

and the alleged motive will be the notice of amended support. This does not release the justiciable from having to prove the existence of a significant change.

If neither parent contests the notice of recalculation, the child support will be reputed payable following the 30 day delay of receipt of the notice. The new child support will be collected by *Revenu Quebec's* Support Payment Collection Program if this collection program is already in effect. Should the parent be exempt from automatic collection, then the child support will be reputed to be payable.

Suspension or cessation of the SARPA

If the parents cannot come to an agreement and wish to use the mediation service to facilitate a consensus, the SARPA may be interrupted until one or both parents request its reinstatement within the three (3) months following service interruption.

If either parent contests and an amicable solution cannot be reached, or either parent files a motion in court, the SARPA will be stopped.

PLEASE NOTE

The law requires parents who have separated to keep each other informed of their respective financial situations in order to ensure that their children have a fair contribution to their needs. If either parent does not fulfill this obligation, the other parent may contact the Court to claim damages.

Available resources

Legal Services Commission (*Commission des services juridiques*)

www.csj.qc.ca

Centre communautaire juridique de Montréal

www.ccjm.qc.ca

Quebec Bar (*Barreau du Québec*)

www.barreau.qc.ca

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