

1950

c 267 Parents' Maintenance Act

Ontario

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CHAPTER 267

The Parents' Maintenance Act

1.—(1) A son or daughter shall be liable for the support of his or her dependent parent to the extent hereinafter mentioned. Liability of child.

(2) A parent shall be deemed to be dependent where he is destitute or where by reason of age, disease, or infirmity he is unable to maintain himself. When parent to be deemed dependent. R.S.O. 1937, c. 212, s. 1.

2.—(1) A dependent parent, or any other person with the consent in writing of the Crown attorney, may lay an information before a magistrate where such parent or any son or daughter resides, who shall issue a summons (Form 1), and if upon the hearing it appears that the parent is dependent and that the son or daughter has sufficient means to provide in whole or in part for such parent, the magistrate, having regard to the whole circumstances of the case, may make an order (Form 2) for the son or daughter to pay for the support of such parent a weekly sum of money not exceeding \$20, with or without costs. Summons and order for maintenance.

(2) Proceedings may be taken under this Act,

(a) by the Public Trustee in the case of a parent who is an inmate in an institution under *The Mental Hospitals Act*; or

Maintenance of parent in hospital or public institution. Rev. Stat., c. 229.

(b) by the governing body of any hospital, home for the aged, house of refuge or other charitable institution in which such dependent parent is an inmate; or

(c) by any local authority or commission acting under any Act for the payment of pensions to aged persons under the *Old Age Pensions Act* (Canada) in the case of a person applying for or in receipt of such pension,

R.S.C. 1927, c. 156.

and the consent in writing of the Crown attorney shall not be necessary before the laying of an information in any such case.

(3) An order may be made under this Act although the dependent parent is being cared for in any sanatorium, home, mental hospital, or other eleemosynary institution. Power not affected by maintenance of parent by charity.

Summoning
more than
one child.

(4) Where there are several children, the magistrate may require the summons to be served upon others not already summoned and may order such of them as ought, in his opinion, to contribute to the support of the parent, to share in the payments ordered and shall apportion the sum to be paid among the children having due regard to their ability and obligations.

Time limit.

(5) The magistrate may in any order set a time limit, not exceeding 30 days, within which each sum of money ordered to be paid and the costs shall be paid. R.S.O. 1937, c. 212, s. 2.

Varying
order or
rehearing
application.

3. Upon proof that the circumstances of any of the parties have changed since the making of any order, any order may be varied, or at the instance of either party on notice to the other an application may at any time be reheard, and any order may be confirmed, rescinded, or varied,

(a) by the magistrate who made the order; or

(b) if such magistrate is dead, ill or absent from his territorial jurisdiction, by any other magistrate whose jurisdiction in the same locality is such that an information similar to the original information could be laid before him; or

(c) in any case, by any magistrate who has jurisdiction in the locality in which the person in whose favour the order is made resides. R.S.O. 1937, c. 212, s. 3.

Application
of Rev. Stat.,
c. 379.

4.—(1) Save where otherwise provided, proceedings under this Act shall be in accordance with *The Summary Convictions Act*, and any order for the payment of money made hereunder may be enforced as if it were an order or conviction made under that Act but imprisonment shall only be ordered under subsection 2.

Enforcement
of order.

(2) Whenever default is made in the payment of any sum of money ordered to be paid, the magistrate who made the order, or any other magistrate before whom an information similar to the original information could be laid, or any magistrate who has jurisdiction in the locality in which the person in whose favour the order is made resides,

by summons;

(a) may from time to time summon the person in default to explain the default; and

by warrant
to arrest;

(b) may, where service of the summons has been proved, and the person summoned does not appear or sufficient reason for his absence is not given, or where it appears that the summons cannot be served or where

an order of imprisonment has been made, issue a warrant for the arrest of such person; and

- (c) may, when a warrant has been issued, or where the person in default fails to satisfy the magistrate that such default is due to inability to pay, order and adjudge such person to be imprisoned for a term of not more than three months unless the sums of money payable under the order are sooner paid. R.S.O. 1937, c. 212, s. 4.

5. An order for payment of money made under this Act may also be filed with the clerk of any division court and enforced by execution and by judgment summons as in the case of a judgment in the division court. R.S.O. 1937, c. 212, s. 5.

FORM 1
(Section 2 (1))

THE PARENTS' MAINTENANCE ACT
SUMMONS

To.....
Of.....

City }
District } Of.....
County }

Whereas an application has this day been made by.....
.....on behalf of.....
.....to the undersigned magistrate, or justices of the peace,
for a summons under *The Parents' Maintenance Act*.

These are, therefore, lawful to command you to appear before the undersigned, or such magistrate or justices of the peace as may be then and there present in my, or our, stead at.....on theday after the service thereof, at the hour of in thenoon, to show cause why an order should not be made against you, to pay to the support of your such weekly sum not exceeding twenty dollars (\$20) as may be considered to be in accordance with your means and with the means of your said..... and with the means of your said family, if any.

Given under.....hand }
and seal this..... }
.....day of....., 19.... }

FORM 2

(Section 2 (1))

THE PARENTS' MAINTENANCE ACT

ORDER

To.....

Of.....

City
District
County

} Of.....

Upon reading the summons dated the.....
day of, 19....., issued by.....
..... magistrate for.....or justices of the peace
for.....upon the application of.....
under the provisions of *The Parents' Maintenance Act*, and upon hearing
all the parties thereto, and the evidence adduced, and it appearing that
the said.....is entitled to the protection and
benefit of the said Act;

I, or we, the undersigned, do hereby order that the said.....
.....does hereafter pay to his, or her.....
the sum of \$..... per week, or month, for his, or her, support, the first
payment to be made on the.....day of....., 19.....,
together with the costs of these proceedings, which amount to \$.....
which shall be paid on or before theday of
....., 19.....

Given under.....hand }
and seal this..... }
.....day of....., 19..... }

R.S.O. 1937, c. 212, Sched.