

# THE GLOBE AND MAIL

## Sponsors not automatically responsible for family debts: court

Ontario Court of Appeal orders governments to stop automatically charging individuals for social assistance debts of relatives they sponsored as immigrants; ruling could cost governments millions

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The Ontario Court of Appeal has ordered governments to stop automatically charging individuals tens of millions of dollars for social assistance debts run up by family members who they had sponsored as immigrants.

The Court said that it is unfair to force people to pay substantial sums of money on behalf of a relative they sponsored without first giving them an opportunity – on a case-by-case basis – to explain why they should not have to pay.

“Canada and Ontario owe sponsors a duty of procedural fairness when enforcing sponsorship debt,” the Court said. “Our decision in this matter will no doubt require that Ontario revisit its policies and procedures relating to the enforcement of sponsorship debt.”

### [Read the court's ruling](#)

The Immigration and Refugee Protection Act regime requires that sponsors sign an undertaking to provide for their sponsored relative's essential needs, and to ensure that the relative would will not require social assistance during the sponsorship period.

Sponsors are required to repay to the federal government – or the province that is involved – whatever amount of social assistance their sponsored relative obtains.

The provision was poorly-enforced until 2004, when 7,500 sponsored relatives in Ontario alone were on social assistance, at a cost to the taxpayer of \$70-million annually. The province commenced vigorously demanding payments from their sponsor.

Today's ruling was a triumph for eight appellants who had each sponsored a relative's entry into Canada under the 'family class' immigration regime.

The sponsored relatives had all received substantial amounts of social assistance, prompting the Ontario government to demand payment from their sponsors. The sponsors each claimed that circumstances beyond their control left them unable to honour their undertaking.

In one case, the appellant – Nedzac Dzhic – claimed that he relied on a government statement that his

former fiancée had been deported. It later turned out that she had successfully appealed her deportation, gone on welfare, and that Mr. Dzihic was being ordered to repay it.

Another litigant – Maria Cristina Jatuff d Altamirano – claimed that an immigration case worker told her that the only consequence of placing her immigrant-mother in a government-assistance nursing home was that Ms. Altamirano could not sponsor any more relatives. Instead, she was charged for the cost of her mother's care at the home.

“Many of the appellants also rely on either extreme changes in their financial circumstances or serious financial hardship,” Madam Justice Janet Simmons, Madam Justice Susan Lang and Mr. Justice John Laskin said in the ruling.

They ordered the creation of a process under which sponsors can explain their personal and financial circumstances and potentially avoid payment of social assistance debts.

Today's ruling – which will likely cost governments millions of dollars – is an increasingly-rare instance of a court decision which effectively costs government money.

“Discretion is fettered or abused when a policy is adopted that does not allow the decision-maker to consider the relevant facts of the case, but instead compels an inflexible and arbitrary application of policy,” the Court said.

