

HOW TO PREPARE A BYSTANDER'S REPORT OR AGREED STATEMENT OF FACTS

NOTE: If there are any words or terms used in these instructions that you do not understand, please visit Illinois Legal Aid Online at illinoislegalaid.org/lexicon/glossary. For more information about going to court including how to fill out and file forms, call or text Illinois Court Help at 833-411-1121 or go to ilcourthelp.gov.

What is a *Bystander's Report* or *Agreed Statement of Facts*?

- A *Bystander's Report* and *Agreed Statement of Facts* describe everything that happened during court hearings or a trial. They include what the judge, the parties, the witnesses, and the lawyers said or testified to in court. They may also include a description of what happened in court in addition to what was said.
- You must use a *Bystander's Report* or *Agreed Statement of Facts* when there was no audio or video recording made of what happened in court, and when no court reporter was in court to take down what was said or done there.
- You can make a *Bystander's Report* or *Agreed Statement of Facts* part of the *Record on Appeal* so the appellate court will have a record of what was said or done in the trial court. The *Bystander's Report* must be written by you but can be based on your own memory or the memory of others in court.

What is the difference between a *Bystander's Report* and *Agreed Statement of Facts*?

- A *Bystander's Report* requires the trial court judge's approval or certification. An *Agreed Statement of Facts* requires all parties to agree on what happened in court.

Who can use the forms for preparing the *Bystander's Report* or an *Agreed Statement of Facts*?

- The appellant (person who filed the appeal) must make sure the *Record on Appeal* is complete. A complete *Record on Appeal* must include a record of what was said or done in court during hearings or a trial.
- If no audio or video recording was made, and there was no court reporter present to take down what happened in court, a *Bystander's Report* or an *Agreed Statement of Facts* must be used to make the *Record on Appeal* complete.

What forms do I need to fill out to file a *Bystander's Report* or an *Agreed Statement of Facts*?

- ***Bystander's Report:*** This form tells the trial court judge and the other parties what was said or done in

court. It should be a detailed description of what the judge, the parties, the witnesses, and the lawyers said or did in court during hearings or a trial.

- ***Agreed Statement of Facts:*** Like the *Bystander's Report*, an *Agreed Statement of Facts* describes everything that was said or done in court during hearings or a trial. Unlike the *Bystander's Report*, the parties must agree on everything that is in the *Agreed Statement of Facts*, and both parties must sign it.
- The email address (if you have one) and mailing address you put on the (*Bystander's Report* or *Agreed Statement of Facts*) is where important legal documents will be sent to you. You should use an email account that you do not share with anyone else and that you check every day. If you do not check your email every day, you may miss important information and documents from other parties.

Where can I find the forms I need?

You can find the forms at: illinoiscourts.gov/documents-and-forms/approved-forms.

What costs will I need to pay when I file the *Bystander's Report* or *Agreed Statement of Facts* forms?

- You do not need to pay to file either the *Bystander's Report* or the *Agreed Statement of Facts*.

When do I need to use the *Agreed Statement of Facts*?

- The *Agreed Statement of Facts* should be used when you and the other parties agree on what was said and done in court. You will need to get the other parties to agree to and sign the *Agreed Statement of Facts*.

When do I need to use the *Bystander's Report*?

- You need to use a *Bystander's Report* when you and the other parties cannot agree on what was said and done in court.

How do I fill out the *Bystander's Report* or *Agreed Statement of Facts*?

- The *Bystander's Report* or *Agreed Statement of Facts* must describe in detail what everyone said or did in court during the hearings or trial. This includes what the judge, the parties, the witnesses, and the lawyers said or did in court.
- You should write the *Bystander's Report* or *Agreed Statement of Facts* like a story or a script that says which person was speaking and what they said or did.

- You can ask others who were in the courtroom what they saw or heard to help you remember what happened in court.
- It is very important for you to make the *Bystander's Report* or *Agreed Statement of Facts* as accurate and detailed as you can.
- You must also list all of the dates and times of the hearings or trial where testimony was given, evidence was introduced, or other things happened that will help the appellate court understand the facts relevant to your appeal.
- It is usually best for you to tell a story by writing down what each person said or did in the order that it happened. You should write your description so that a person who was not there can understand what happened.

Case Name

- Fill in this section the same way you filled it out on the *Notice of Appeal (Civil)*.

Section 1

- In this section, you must list all of the dates and times of all the hearings and the trial (if it applies) in your case.
- You must also list the names of the judges at each hearing or trial.

Section 2

- The *Bystander's Report* or *Agreed Statement of Facts* tells the appellate court everything the trial court judge, parties, lawyers, and witnesses said and did in court.

Signatures

- The person who made the *Bystander's Report* must sign it. There is also a place for the trial court judge to sign it to show that it is approved.
- If you are using an *Agreed Statement of Facts*, then all of the parties or their attorneys must sign it. The trial court judge does not need to sign an *Agreed Statement of Facts*.

When do I have to file the *Bystander's Report* or *Agreed Statement of Facts*?

- A *Bystander's Report* or *Agreed Statement of Facts* must be filed with the trial court clerk within 49 days after the date you filed the *Notice of Appeal (Civil)*.
- The 49-day period to file the *Bystander's Report* or *Agreed Statement of Facts* starts on the day after you filed the *Notice of Appeal (Civil)*. You must count weekends and holidays. However, if the 49th day is on a weekend or court holiday, you may file the *Bystander's Report* or *Agreed Statement of Facts* on the next business day.

- If you need more time, you will need to file a Motion for Extension of Time with the appellate court. You can use the *Motion* form found here: <https://www.illinoiscourts.gov/forms/approved-forms/approved-statewide-forms-appellate-forms/motion>.

How do I file the *Bystander's Report* or *Agreed Statement of Facts*?

- If you are using a *Bystander's Report*, there are 4 things that must happen before you can file it with the trial court clerk:
 - First, you must serve the *Bystander's Report* on all of the other parties within 28 days after you filed the *Notice of Appeal (Civil)*. If any party has a lawyer, you must send your *Bystander's Report* to the lawyer. The 28-day period starts on the day after you filed the *Notice of Appeal (Civil)*.
 - You must count weekends and holidays. However, if the 28th day is on a weekend or court holiday, you may serve the *Bystander's Report* on the next business day.
 - If you and the person you're sending the *Bystander's Report* to have an email address, you must send it by email or by notification through the e-filing system. If you or the person you're sending the *Bystander's Report* to does not have an email address, you may give it to the other parties by personal hand delivery, mail, or third-party commercial carrier (for example, FedEx or UPS).
 - Second, on the same date you serve your *Bystander's Report*, you must schedule a hearing in front of the trial court to approve the *Bystander's Report*. The hearing needs to occur between 14 and 21 days after you serve your *Bystander's Report*. To schedule the hearing, fill out a circuit court *Motion* and *Notice of Court Date for Motion* and file it with the trial court. This is a separate set of forms that you can find at: [illinoiscourts.gov/documents-and-forms/approved-forms](https://www.illinoiscourts.gov/documents-and-forms/approved-forms). Use the *Motion* to ask the court to approve your *Bystander's Report*.
 - Third, within 14 days after you serve the *Bystander's Report*, any other party may serve you with suggested changes to your *Bystander's Report*, or with their own *Bystander's Report*.
 - Fourth, at the hearing, the trial court judge will decide whether to approve and certify the *Bystander's Report* so that you can file it with the trial court clerk to be included in the *Record on Appeal*.
- After the trial court has heard and decided the *Motion*, you must file the *Bystander's Report* and the order approving it with the trial court clerk within 49 days after you filed your *Notice of Appeal (Civil)*.
- You must file the (*Form Name*) with the trial court by the filing deadline that applies to your case.

- You must electronically file (e-file) court documents unless (1) you are an inmate in a prison or jail and you do not have a lawyer, (2) you have a disability that keeps you from e-filing, or (3) you qualify for an exemption from e-filing.
 - You will qualify for an exemption if: (1) you do not have internet or computer access at home and it would be difficult for you to travel to a place where you could use a computer; (2) you have trouble reading or speaking in English, or (3) you tried to e-file your documents, but you were unable to complete the process because the equipment or assistance you need is not available.
 - If you qualify for an exemption, fill out a *Certification for Exemption from E-Filing* found here: <https://www.illinoiscourts.gov/documents-and-forms/approved-forms/>.
 - File the original and 1 copy of your forms and the *Certification* with the trial court clerk's office in person or by mail.
- To e-file, create an account with an e-filing service provider.
 - Visit efile.illinoiscourts.gov/service-providers.htm to select a service provider. Some service providers are free while others charge a processing fee. For instructions on how to e-file for free with Odyssey eFileIL, see the self-help user guides here: illinoiscourts.gov/self-help/how-to-e-file/.
- If you do not have access to a computer or if you need help e-filing, take your form to the Circuit Clerk's office where you can use a public computer terminal to e-file your forms.