



This is for information and instruction. Do not file it.

HOW TO ASK THE JUDGE TO APPOINT THE PUBLIC DEFENDER

Note: In many counties, all 3 of these steps happen on the same day.

1

FILL OUT AND FILE THE FORMS.

To ask the judge to appoint the Public Defender in your criminal case, start by filling out the following forms:

- *Application to Appoint the Public Defender & Affidavit of Assets & Liabilities*
- *Order on Application to Appoint the Public Defender*

These forms tell the judge about your income, expenses, and any public benefits you receive. The judge will use them to decide if you qualify for the appointment of a Public Defender.

2

WAIT FOR A DECISION.

After filing your forms, the judge will review your *Application* form and may ask you questions about the information you put on the form.

3

RECEIVE THE SIGNED ORDER.

The judge will decide whether to approve your *Application* during the hearing. If your *Application* is approved, the judge will fill out the rest of the *Order* you filed. The *Order* will assign you an attorney from the Public Defender's office to your case. A copy of this *Order* will be filed with the clerk's office.

The judge or the clerk will provide you with your Public Defender's office location and contact information. You must schedule your first meeting to discuss your case.

Laws covering these forms: [55 ILCS 5/3-4006](#), [725 ILCS 5/113-1](#), and [725 ILCS 5/113-3.1](#)



This packet is not legal advice. It provides general instructions on how to use these forms in your court case. It cannot and does not try to cover everything that might happen in your court case. Your use of the forms does not guarantee you will be successful in court.

How a judge handles a case can vary from county to county. **Your county may have special requirements that are not covered in these instructions.** Ask the Circuit Clerk's office if your county has local rules and, if so, where you can get a copy.

ARE THESE FORMS FOR ME?

You may **use these forms** to ask the court to appoint the Public Defender as your lawyer for your criminal case.

Use these forms only if:

- Your case is a **criminal case in circuit court**. This includes felony and misdemeanor cases, and misdemeanor traffic violations.

Do not use these forms if:

- Your case is a civil case or juvenile justice case.
- Your case is for a petty offense or petty traffic violation.
- Your case is a criminal or civil appeal.

Forms required:

- *Application to Appoint the Public Defender & Affidavit of Assets & Liabilities*: This form tells the judge about your finances. The judge uses this information to decide if you qualify.
- *Order on Application to Appoint the Public Defender*: This form is used by the judge to say whether you can have a Public Defender represent you.

You can find all of the statewide forms online at ilcourts.info/forms.

IMPORTANT INFORMATION

What is a Public Defender?

- A Public Defender is a licensed lawyer. Public Defenders represent defendants who cannot afford to hire a lawyer.
- A person can only ask the judge for a Public Defender in criminal and misdemeanor traffic circuit court cases. This means you **cannot** get a Public Defender for:
 - A civil case, like an eviction or a divorce;
 - Petty offenses (a minor violation that only results in a fine), such as littering; OR
 - Petty traffic violations, such as improper lane usage or seatbelt tickets.

When do I ask for a Public Defender?

- If you believe you qualify for a Public Defender, you may ask the judge when you first appear in court for your criminal case.
- You can fill out the *Application to Appoint the Public Defender & Affidavit of Assets and Liabilities* before you go to court and bring it to your first court date. This will save you time when you are in court. You may also fill out the *Application* when you appear in court.

What is an "affidavit"?

- An affidavit is a sworn statement made under oath. An oath is a promise to tell the truth. If you do not tell the truth when you make a statement under oath, you could face serious legal consequences.

Where can I find the forms I need?

- You can get physical copies of the forms you need from the Circuit Clerk where your case is pending. The forms may also be found in the courtroom where your case is heard.

- You can also find the forms online at ilcourts.info/forms. Under Illinois Supreme Court Rule [10-101](#), approved statewide forms must be accepted in all Illinois Circuit Courts.

Do I have to pay to file the request for a Public Defender?

- No. There is no cost for filing the *Application* form.

Do I have to request a Public Defender by a certain deadline?

- No. But, if you choose to represent yourself in your case, the judge may deny a later request for the Public Defender.

If I get a Public Defender, can the judge make me pay back the cost of the Public Defender?

- The judge or prosecutor can request that you pay for your Public Defender up to 90 days after your case ends if your initial financial application was false or incomplete, your finances have improved, or you will have the ability to pay later.
- If this occurs, the court will hold a hearing where you can explain why you cannot afford the costs before the judge makes a final decision.
- The maximum amount you can be ordered to pay is \$500 for a misdemeanor, \$5,000 for a felony or \$2,500 for an appeal.

How do I prove I cannot afford a lawyer?

- The judge may make you prove the information in your *Application to Appoint the Public Defender & Affidavit of Assets and Liabilities*. If you get public benefits, bring a benefits statement from the agency providing the benefits.
- Some common public benefits are:
 - Supplemental Security Income (SSI, Not Social Security)
 - Aid to the Aged, Blind and Disabled (AABD)
 - Temporary Assistance to Needy Families (TANF)
 - Food Stamps (SNAP)
 - General Assistance (GA)
 - Transitional Assistance
 - State Children and Family Assistance
- If you do not get public benefits, you may want to bring papers that show your income, value of belongings (for example, real estate), and expenses. These papers could be pay stubs, tax returns, or bank statements.

Do I need to include my spouse or domestic partner's information in the *Application to Appoint the Public Defender & Affidavit of Assets and Liabilities*?

- If your spouse or domestic partner contributes to your household's income, you need to include their information on the *Application*.

Preparing for Your Court Date



Make sure you know how to attend your court date.

Your court date could be in person, by phone, or by video. If it is by phone or video, it is called a "Remote Appearance." Call the Circuit Clerk or visit their website for more information. To find the phone number for your Circuit Clerk, visit ilcourts.info/clerks.

- If your court date is in person:
 - Get to the courthouse at least 30 minutes early so you have enough time to get through security.
 - Go to the courtroom number listed on your court form.
 - If your forms do not have a courtroom number, look for a list of cases at the courthouse or ask someone at the Circuit Clerk's office.

- Check in with the courtroom staff and wait for your name and case number to be called.
- If your court date is by phone or video:
 - Make sure to have the correct call-in or login information for your court date.
 - Follow the instructions on the court notice you received. Call the Circuit Clerk or Circuit Court, or visit their websites for specific technology instructions.
 - Call or log-in to your courtroom at least 15 minutes before the start time in case you have any problems with technology.
 - Follow these tips to attend court by phone or video: ilcourts.info/remote-resources.
- When your case is called, introduce yourself to the judge. If you are attending by phone or video remember to unmute yourself.



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.

If there are any words or terms used in these instructions that you do not understand, please visit **Illinois Legal Aid Online** at ilao.info/glossary. You may also find more information, resources, and the location of your local legal self-help center at ilao.info/lshc-directory.



STEP 1

FILL OUT AND FILE FORMS.

How do I fill out the *Application to Appoint the Public Defender & Affidavit of Assets and Liabilities*?

- Follow the instructions on the form and fill out each section.
- If you give the judge an incomplete *Application*, the judge may delay your hearing until your form is complete.

How do I calculate the amount of money and income I receive monthly?

Use the information below to help make your calculations.

- **Weekly (52 times per year):** If you are paid weekly multiply your weekly pay by 52, then divide that total by 12 to get your monthly amount.
 $\$ \boxed{} \times 52 = \$ \boxed{} \div 12 = \$ \boxed{} \text{ per month}$
- **Bi-weekly (Paid every 2 weeks, 26 times per year):** If you are paid every 2 weeks (bi-weekly) multiply your bi-weekly pay by 26, then divide that total by 12 to get your monthly amount.
 $\$ \boxed{} \times 26 = \$ \boxed{} \div 12 = \$ \boxed{} \text{ per month}$
- **Semi-monthly (Paid twice a month, 24 times per year):** If you are paid twice a month (semi-monthly) multiply your semi-monthly pay by 24, then divide that total by 12 to get your monthly amount.
 $\$ \boxed{} \times 24 = \$ \boxed{} \div 12 = \$ \boxed{} \text{ per month}$
- **Quarterly (4 times per year):** If you are paid quarterly multiply your quarterly pay by 4, then divide that total by 12 to get your monthly amount.
 $\$ \boxed{} \times 4 = \$ \boxed{} \div 12 = \$ \boxed{} \text{ per month}$



HOW TO FILE THE FORMS

- Typically, this form is filed in court the first time you are in front of the judge.
- If you are not filling out this form at your first court date, you should check with your Circuit Clerk in the courthouse where your case is pending to find out the preferred way to file your form. You can find your Circuit Clerk at ilcourts.info/clerks.
- When your case is called at your first court date, tell the judge that you would like a Public Defender. You will then give the judge or the courtroom staff your completed form.
- To save time, it is best to fill out these forms out before you arrive, but you are also allowed to fill them out in the courtroom.
- The judge will review your financial information and will usually decide right then if you qualify.



STEP 2

WAIT FOR A DECISION.

- The judge will review your *Application to Appoint the Public Defender & Affidavit of Assets and Liabilities*. Then the judge will decide whether you can get a Public Defender. Usually, this will happen the first time you go to court.
- The judge may need more information from you. If so, the judge may want to have a hearing on your *Application*. The judge will let you know if you need to give them more information.



STEP 3

RECEIVE THE SIGNED ORDER.

- After the judge makes a decision, the judge will fill out the *Order on Application to Appoint the Public Defender*. The *Order* will say either:
 - The *Application* is granted, or approved, and a Public Defender is appointed to be your lawyer;
 - The *Application* is denied and a Public Defender will not be appointed; OR
 - The judge needs more information to make a decision.
- The Circuit Clerk will tell you how and when you will get a copy of the *Order on Application to Appoint the Public Defender*.