

HOW TO FILE A NOTICE OF ELECTION WITH THE ILLINOIS SUPREME COURT

NOTE: 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. 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 *Notice of Election*?

- A *Notice of Election* is used only when the Illinois Supreme Court allows a *Petition for Leave to Appeal*.
- **For appellant:** You must use the *Notice of Election* to tell the Supreme Court and your opponent whether you will: (1) file an *Appellant's Brief* or (2) rely only on your *Petition for Leave to Appeal*.
- **For appellee:** If you filed an *Answer to Petition for Leave to Appeal*, you must use the *Notice of Election* to say whether you will file an *Appellee's Brief* or rely only on your *Answer*. Do **not** file a *Notice of Election* if you did not file an *Answer to Petition for Leave to Appeal*.

Who can use the *Notice of Election*?

When the Illinois Supreme Court allows a *Petition for Leave to Appeal*, the appellant must file a *Notice of Election*. If the appellee filed an *Answer to Petition for Leave to Appeal*, the appellee must also file a *Notice of Election*.

When do I file the *Notice of Election*?

- **For appellant:** You must file a *Notice of Election* within **14 days** after the Illinois Supreme Court allows the *Petition for Leave to Appeal*.
- **For appellee:**
 - If you filed an *Answer to Petition for Leave to Appeal*:
 - And the appellant is **not filing a brief** but is relying on their *Petition for Leave to Appeal*, you must file the *Notice of Election* within **14 days** after the due date for the *Appellant's Notice of Election*. **OR**
 - If the appellant **is filing a brief**, then within **14 days** after the due date for the *Appellant's Brief*, you must file a *Notice of Election*.
 - If you did **not** file an *Answer to Petition for Leave to Appeal*, you are not required to file a *Notice of Election*. However, you must file an *Appellee's Brief* within **35 days** after the due date for the *Appellant's Brief*.
- **SPECIAL DEADLINES IN CERTAIN CASES:**
If the appeal involves parental responsibility or parenting time (custody or visitation), relocation of a

child, a delinquent minor, or pretrial release, the *Notice of Election* forms must be filed within **7 days** after the *Petition for Leave to Appeal* was allowed.

Where can I find the forms I need?

- You can find the forms you need at: ilcourts.info/forms.
- You can also ask the Illinois Supreme Court Clerk for a copy.

What costs will I need to pay to file my *Notice of Election*?

None.

How do I fill out the *Notice of Election*?

- Download and fill out the form online or print it and fill it out by hand. If you fill it out by hand, you must print neatly.
- You might have to add pages to the form and remove pages from it. If you have access to a computer with a PDF editing program (such as Adobe Acrobat), you can add and remove pages electronically. Otherwise, you will have to print out the form and add and remove pages by hand.
- The *Notice of Election* form has many sections that are listed below, with instructions for each section:

Cover page (1st page)

- Check the top box if the appeal involves parental responsibility or parenting time (custody/visitation rights) or relocation of a child. Check the second box if your case involves delinquent minor proceedings. Check the third box if your case involves pretrial release.
- Enter the Supreme Court case number.
- If the case was given a name beginning with "In re" (e.g., "In re Marriage of Jones"), enter that name on the line that starts with "In re."
- Enter the names of the plaintiff/petitioner in the trial court (the party who filed the trial court case), and the defendant/respondent in the trial court (the party the trial court case was filed against).
- Identify which party is the appellant in the Illinois Supreme Court by checking the "Appellant" box below their name. The appellant is the party who filed the *Petition for Leave to Appeal* in the Illinois Supreme Court. Next, identify which party is the appellee by checking the "Appellee" box under their name. The appellee is the party responding to the appeal.

- Enter the appellate court district (First, Second, Third, Fourth, or Fifth) that decided the first appeal and enter the appellate court case number.
- Enter the trial court county, case number, and judge's name.

Notice of Election

- Write your name, mailing address, email address, and phone number. The email address (if you have one) and mailing address you put on the *Notice of Election* 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 or documents from other parties or from the court.
- Check the box to show whether you are the appellant or the appellee in the Illinois Supreme Court.
- **For appellant:** Check the box to show whether you will file an *Appellant's Brief* or will rely on your *Petition for Leave to Appeal* to make your arguments in the appeal. If you will rely on your *Petition for Leave to Appeal*, check the box to show whether you request oral argument. If you choose to rely only on your *Petition for Leave to Appeal*, you may only file an *Appellant's Reply Brief* with the Illinois Supreme Court's permission.
- **For appellee:** Fill out this form **only after** the appellant has filed their *Notice of Election*. Then, check the box to show whether you will file an *Appellee's Brief* or rely on your *Answer to Petition for Leave to Appeal* to make your arguments in the appeal. If you will rely on your *Answer to Petition for Leave to Appeal*, check the box to show whether you request oral argument.
- Sign and print your name on the form.

Table of Contents to the Record on Appeal

- **NOTE:** Fill out this section **only if you are the appellant AND** you will rely **only** on your *Petition for Leave to Appeal* (you won't file a brief).
- Add a table of contents to the record on appeal. To do this, attach the table of contents prepared by the circuit court clerk that is at the front of the common law record. If the circuit court clerk did not prepare a table of contents, then use this part of the form to add information in the following sections:
 1. **Common law record:** List what is in the common law record (all the documents filed in the trial court). Write the title of each document in the common law record, the date each document was filed, and the page number where each document starts.
 2. **Report of proceedings:** List the report of proceedings (the transcripts of any trial court hearings and witness testimony). Write the date of each hearing transcript and the page of the record where each transcript starts.

3. **Index of witnesses:** For transcripts of witnesses at trial, write the name of each witness who testified; the party who called each witness to testify; and the pages of the transcript where each witness questioning starts.

- If necessary, fill out and insert one or more *Additional Common Law Record*, *Additional Report of Proceedings*, or *Additional Index of Witnesses* forms into the main form.

Standard of Review for Each Issue

- **NOTE:** Fill out this section **only if you are the appellant AND** you will rely **only** on your *Petition for Leave to Appeal* (you won't file a brief).
- "Standard of review" means how much respect the Illinois Supreme Court must give to the lower court rulings. The standard of review affects how the Illinois Supreme Court will decide the appeal and depends on the type of mistake that was made by the jury or by the trial court.
- Check the box to show who made the mistake you want the Illinois Supreme Court to review.
- Describe the mistake that was made. If the court made more than one mistake, list each mistake (issue) separately.
- Check the box to choose the standard of review the Supreme Court should use for each issue raised by the arguments in your *Petition for Leave to Appeal*.
 - A "de novo" standard of review means the Supreme Court will decide the issues fresh, as if it was the first court to decide them.
 - A "manifest weight" standard means the Supreme Court will look at whether the jury's or trial court's decision is totally unreasonable compared to what the evidence showed.
 - An "abuse of discretion" standard generally means the Supreme Court will give the benefit of the doubt to the trial court's decision, especially if it is a close call.
- Add a citation to authority (for example, a case) for each standard of review on the "Authority for Standard of Review" line.

Proof of Delivery

- Show how you are sending your *Notice of Election* to the other parties.
- See the "**What do I do after I fill out the Notice of Election?**" section below for more instructions.

What do I do after I fill out the Notice of Election?

Step 1: Send your Notice of Election to all other parties.

- You must send your *Notice* to the other parties in the case. However, if any party has a lawyer, you must send your *Notice* to the lawyer.
- If you and the person you're sending the *Notice* 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 *Notice* 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).

- The *Proof of Delivery* has room for 3 parties. If you send your *Notice of Election* to more than 3 parties, fill out and add one or more *Additional Proof of Delivery* pages to your *Notice of Election* form.

Step 2: File your *Notice of Election* with the Illinois Supreme Court.

E-filing:

- You must file your *Notice of Election* with the Clerk of the Illinois Supreme Court by the filing deadline that applies to your case. If you are uncertain as to when the filing deadline is, call the Supreme Court Clerk's office at 217-782-2035.
- After you fill out your court forms, file them with the Illinois Supreme Court. This is done by electronic filing, called 'e-filing.'
- You do not have to e-file if you qualify for an exemption (see "Not E-Filing" below), or if your case involves a criminal matter.
- Most people e-file their forms using Odyssey eFileIL at ilcourts.info/efile.
- Follow step-by-step instructions and watch videos that walk you through the steps for e-filing at ilcourts.info/EfileHowTo.
- E-filing is easier on a computer. It may not work on a cell phone or tablet.
- If you do not have access to a computer or if you need help e-filing, take your completed forms to a public library, or a Circuit Clerk, Appellate Clerk, or Supreme Court Clerks' office. These places offer public computers where you can e-file your forms.
 - Depending on your courthouse, you can bring your forms on paper and there may be public computers with a scanner where you can turn your paper forms into electronic files.
 - Librarians and courthouse staff may be able to help you e-file, but they cannot provide legal advice.

Not E-filing:

- Some people are not required to e-file, which means they can file paper forms at the courthouse or by mail. People who do not have to e-file are:
 - Inmates in prison or jail who do not have a lawyer.
 - People with a disability that keeps them from e-filing.
- You may also qualify for an exemption from e-filing if you:
 - Do not have Internet or computer access in your home, and it is hard for you to travel.
 - Have trouble reading, writing, or speaking English.

- Are filing documents in a sensitive case, such as an order of protection.
- Tried to e-file your forms, but you were not able to because the equipment or help you needed was not available.
- If you qualify for an exemption, fill out a *Certification for Exemption from E-Filing* found here: ilcourts.info/forms. See Step 3 below for how to mail your copies to the Illinois Supreme Court along with an original copy of your *Certification for Exemption from E-Filing*.

Step 3: Mail paper copies to the Illinois Supreme Court.

If you choose to rely on your *Petition for Leave to Appeal*, you **must do one** of the following. All copies must be mailed to the Clerk of the Illinois Supreme Court at:

Clerk of the Illinois Supreme Court
200 E. Capitol Ave.
Springfield, IL 62701-1721

E-filing

- If you e-filed your *Notice of Election*, send 13 copies of the page(s) containing the standard of review with citations for each issue (showing the clerk's e-file stamp) and 1 copy of the index to the record on appeal to the Springfield office of the Clerk of the Illinois Supreme Court within **5 days** of the date your *Notice of Election* was accepted and filed.

Not E-filing

- If you were not required to e-file, send your *Notice of Election* to the Springfield office of the Clerk of the Illinois Supreme Court. You must include 1 original, plus 12 copies of the page(s) containing the standard of review with citations for each issue and 1 copy of the index to the record on appeal.

Step 4: File your *Brief* (if you choose to file one).

- See the instructions and forms for filing a brief here: ilcourts.info/forms.