

# HOW TO PREPARE AND FILE A PETITION FOR LEAVE TO APPEAL

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**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](http://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](http://ilcourthelp.gov).

## What is a *Petition for Leave to Appeal*?

- A *Petition for Leave to Appeal* asks the Illinois Supreme Court to decide a case that was already decided by the appellate court. Except in very limited circumstances that are explained below, the Illinois Supreme Court does not have to take a case that the appellate court decided.
- The main purpose of your *Petition for Leave to Appeal* is to urge the Illinois Supreme Court to review the appellate court's decision in your case because it concerns an important statewide issue. That means the appellate court decision affects people throughout the State of Illinois, and not just you. Here are some examples of these types of cases:
  1. The appellate court's decision in your case has facts similar to a case the Illinois Supreme Court already decided but with a different result. When this happens, the Illinois Supreme Court may need to explain how the law applies in a situation like yours so that people are not confused.
  2. Your appellate court case has facts similar to another appellate court case in Illinois that was decided in a different way. When that happens, the Illinois Supreme Court needs to step in to clear up the conflict between the appellate court decisions.
  3. In addition, an appellate court decision that affects people throughout Illinois (and not just you) is when the appellate court makes a mistake about the meaning of a law passed by the Illinois General Assembly, or about the meaning of an Illinois Supreme Court Rule. The Illinois Supreme Court may need to hear the case because people need to know the courts will interpret a law or rule in the same way, so they know how to act.
  4. Finally, the Illinois Supreme Court sometimes takes a case that involves an issue that has never been decided before, but it usually must be a question that is likely to come up again and that could affect a lot of people.

## When is the Illinois Supreme Court required to review my case?

- The Illinois Supreme Court must also hear your case if the appellate court decision said that a law is unconstitutional or decided a constitutional issue for the first time. If that happened, you must check the box that says you are filing your *Petition for Leave to Appeal* "as a matter of right."

## Who can use the *Petition for Leave to Appeal* form?

- Any person who was a party to an appeal the appellate court decided may file a *Petition for Leave to Appeal*.
- You should use the *Petition for Leave to Appeal* form when you believe the appellate court decision was wrong.

## When do I file the *Petition for Leave to Appeal* form?

- You must file your *Petition for Leave to Appeal* within **35 days** after the date of the appellate court decision in your case.
- Do **not** file a *Petition for Leave to Appeal* if you or another party has filed a *Petition for Rehearing* and it has not been decided yet.
- If a *Petition for Rehearing* was filed in the appellate court and it was denied, then you must file your *Petition for Leave to Appeal* within 35 days after the date the appellate court denied the *Petition for Rehearing*.
- If the appellate court granted a *Petition for Rehearing*, you must file your *Petition for Leave to Appeal* within 35 days after the decision on rehearing.
- If the appellate court denied a *Petition for Rehearing*, but modified (changed) its decision, then you must file your *Petition for Leave to Appeal* within 35 days after the appellate court filed the modified decision.
- If a Motion to Publish was filed in the appellate court, you must file your *Petition for Leave to Appeal* within 35 days after the published opinion is filed (if the appellate court allows the Motion to Publish), or within 35 days after the court denies the Motion to Publish. You cannot file your *Petition for Leave to Appeal* if the appellate court has not yet decided on the Motion to Publish.

### What will I need to pay to file my *Petition for Leave to Appeal* form?

- You must pay a \$50 filing fee to the Clerk of the Illinois Supreme Court when you file a *Petition for Leave to Appeal* unless you file an *Application for Waiver of Court Fees (Supreme Court)* and the Court approves your *Application*, which can be found at: [ilcourts.info/forms](http://ilcourts.info/forms).

### How do I fill out the *Petition for Leave to Appeal* Form?

- 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.
- There is a page or word limit. The *Petition for Leave to Appeal* must not be more than 20 pages or 6,000 words. This page or word limit does not include the cover (first page), the certificate of compliance, the proof of delivery, and the appendix.
- The *Petition for Leave to Appeal* form has many sections that are listed below, with instructions for each section:

#### Cover 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 there is one. If the Supreme Court has not given your case a number yet, leave this line blank. The Supreme Court will only give your case a number if you have filed a motion with the Supreme Court before the *Petition for Leave to Appeal*, such as a Motion for Extension of Time to file your *Petition for Leave to Appeal*.
- Enter the name of the trial court case. If the case has a name beginning with "In re" (such as "In re Marriage of Jones") enter that name. Then, 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 case was filed against).
- Check the boxes to show that you are the petitioner in the Supreme Court (the party who is filing the *Petition for Leave to Appeal*) and that the other party

is the respondent in the Supreme Court (the party you are filing the petition against).

- Enter the appellate court district (First, Second, Third, Fourth, or Fifth) that decided the appeal and enter the appellate court case number.
- Enter the trial court county, trial court case number, and trial judge's name.
- Enter your name, mailing address, email address, and phone number. The email address (if you have one) and mailing address you put on the *Petition for Leave to Appeal* 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.

#### Prayer for Leave to Appeal

- Enter your name and the appellate court district that decided your appeal.
- If your *Petition for Leave to Appeal* involves a constitutional question and is filed under [Rule 317](#), check the box next to "As a Matter of Right." Otherwise, check [Rule 315](#) (permissive review).

#### Judgment Below

- Enter the date of the appellate court's decision.
- Check (2) if no one filed a *Petition for Rehearing* with the appellate court after its decision.
- Check (3) if you or another party filed a *Petition for Rehearing* and enter the dates the *Petition for Rehearing* was filed and denied.

#### Points Relied Upon for Review

- Describe why the Illinois Supreme Court should hear and decide your case. The Supreme Court will usually hear cases that involve one or more of the following five numbered examples on the form. You should briefly say how your case is like **one or more** of these types of cases (leave them blank if they don't apply to your case):
  1. The Illinois Supreme Court decided a case very similar to yours and the appellate court decided your case differently than the Supreme Court did in the similar case. You should explain in (1) how your case is like the previous Supreme Court case and why the appellate court should have decided your case the same way.
  2. The appellate court's decision in your case disagrees with another appellate court decision in Illinois. If that happened in your case, you need to first add the name of the appellate court case where the decision was different from your case in (2). Then, explain in (2) how your case was very similar to the other

appellate court case and why your case should have been decided the same way.

3. Your case involves an issue that may affect many people throughout Illinois. For example, if your case involves the meaning of a state law or an Illinois Supreme Court Rule, it could affect lots of people, not just you. An issue that is discussed in the news a lot may also be an issue that affects a lot of people. If you believe the decision in your case affects people throughout Illinois, then you need to explain in (3) how the decision may be unfair to other people in the same situation as you.
4. Explain in (4) why the Illinois Supreme Court should use its supervisory authority in your case. That usually means the case involves how the court system works. An example would be if a trial court rule or an appellate court rule is unfair or causes unreasonable delay or unnecessary expense. Another example is if the Illinois Supreme Court recently decided a case very similar to yours, but the appellate court did not say why that Supreme Court decision did not apply in your case. In that situation, the Illinois Supreme Court may send your case back to the appellate court for a new decision.
5. If you believe there is any other reason that the Supreme Court should review the appellate court decision, enter the reason in (5). Just because you disagree with the appellate court decision, that is not a reason for the Illinois Supreme Court to grant your *Petition for Leave to Appeal*.

#### Statement of Facts

- Tell the Supreme Court the facts of your case. Use witness testimony and any other evidence that was admitted at trial to tell a short story about what happened.
- Include the page numbers of the record on appeal where the evidence you describe in your story is located. Include the page numbers of the appendix when you talk about any part of the appellate court's decision. There are instructions for adding the appendix below.
- Your Statement of Facts should be a clear, simple, objective description of the facts of your case. Do not argue or give your opinion or personal feelings about the case.
- If you need more room, fill out and add one or more *Additional Statement of Facts* pages into the *Petition for Leave to Appeal*.

#### Argument

- Explain how the appellate court should have decided your case differently and why the Illinois Supreme Court should review your case.
- Your argument should add details to your *Points Relied Upon for Review* to explain why the Illinois Supreme Court should review your case.
- If there are Illinois Supreme Court or appellate court cases that are similar to your case and were decided differently, talk about those specific cases. Explain why your case should have been decided the same way as those other Supreme Court or appellate court cases.
- If your case involves the meaning of an Illinois statute, local ordinance, Illinois Supreme Court Rule, or similar law, make sure you explain why you think the appellate court made a mistake about the meaning of the statute, local ordinance, Illinois Supreme Court Rule, or other law. Point out what happened in your case to help the Illinois Supreme Court understand how the law should have been applied in a case like yours and why the appellate court's decision is unfair to you and to other people in a situation like yours.
- The Illinois Supreme Court will not consider arguments that are unclear or incomplete. If you need more room, fill out and add one or more *Additional Argument* pages into your *Petition for Leave to Appeal* so you can completely explain your argument.
- For help doing legal research for the Argument section of your *Petition for Leave to Appeal*, use this link: [ilcourts.info/ResearchGuides](http://ilcourts.info/ResearchGuides).

#### Conclusion

- Check one or more of the boxes and, if necessary, write what you want the Illinois Supreme Court to do. For example, you can ask the Supreme Court to change the whole appellate court decision or to change some part of it. If you think you should get a new trial, you should ask for one.
- Sign the form and print your name.

#### Certificate of Compliance

- You must enter the number of pages OR the number of words that are in your *Petition for Leave to Appeal*. Your *Petition* cannot be more than 20 pages long, or more than 6,000 words (one or the other).
- When you count the number of pages or words in your *Petition for Leave to Appeal*, do not count the cover page (first page), the proof of delivery, the certificate of compliance, or the appendix.
- Sign the certificate of compliance and print your name to confirm you have followed the rules for briefs, especially the page or word limit.

## Proof of Delivery

- You must send the other party (or parties) a copy of your *Petition for Leave to Appeal* and the appendix.
- Say how you are sending your *Petition for Leave to Appeal* to the other parties (see Step 1 below).

## Appendix

- Include a complete copy of the appellate court decision as the first item in the appendix to your *Petition for Leave to Appeal*. Include any documents from the record on appeal that you think would be helpful for the Supreme Court to have when it reads your *Petition for Leave to Appeal*.
- Do NOT include the entire record on appeal in the appendix to your *Petition for Leave to Appeal*.

Once your filing is accepted, you will have to mail 13 bound copies of your *Petition for Leave to Appeal* to the Clerk of the Supreme Court in Springfield. See Step 4 on the next page. Remember, the more documents you include in the appendix section of your *Petition for Leave to Appeal*, the more you will spend to make copies.

## **What do I do after I fill out the form?**

### **Step 1: Send your *Petition for Leave to Appeal* to all other parties.**

- You must send your *Petition for Leave to Appeal* to the other parties in the case. However, if any party has a lawyer, you must send your *Petition* to their lawyer.
- If you and the person you're sending the *Petition for Leave to Appeal* 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 *Petition for Leave to Appeal* 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 *Petition for Leave to Appeal* to more than 3 parties, fill out and insert one or more *Additional Proof of Delivery* forms into the main form.

### **Step 2: File your *Petition for Leave to Appeal* with the Clerk of the Illinois Supreme Court.**

#### **E-filing:**

- You must file your *Petition for Leave to Appeal* 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](http://ilcourts.info/efile).
- Follow step-by-step instructions and watch videos that walk you through the steps for e-filing at [ilcourts.info/EfileHowTo](http://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.
  - You can bring your forms on paper or saved on a flash drive. The public computer will have 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](http://ilcourts.info/forms).
- Then file the following documents with the Clerk of the Illinois Supreme Court:
  - The original *Certification for Exemption from E-Filing*.
  - One original paper copy of the *Petition for Leave to Appeal* (including the appendix).



- Plus 12 paper copies of the *Petition for Leave to Appeal* (including the appendix).

**Step 3: Pay the filing fee or file an *Application for Waiver of Court Fees*.**

- There is a fee for filing a *Petition for Leave to Appeal* with the Clerk of the Illinois Supreme Court.
- Whether you file electronically or have an exemption from e-filing, the filing fee must be paid at the time you file your *Petition for Leave to Appeal*.
- If you cannot afford to pay the filing fee, you can ask the court to file for free or at a reduced cost by filing an *Application for Waiver of Court Fees*. This is a separate set of forms you can find at: [ilcourts.info/forms](http://ilcourts.info/forms).
- You should file this form at the same time as your *Petition for Leave to Appeal*.

**Step 4: Mail paper copies to the Illinois Supreme Court.**

- Once your filing is accepted, you will have to mail 13 bound copies of your *Petition for Leave to Appeal* (including the appendix) to:  
  
Clerk of the Illinois Supreme Court  
200 E. Capitol Ave.  
Springfield, IL 62701-1721
- The bound paper copies must show the Clerk's electronic file stamp on the cover page.

**Step 5: Wait for the Illinois Supreme Court's decision.**

- The Illinois Supreme Court will send you a decision that allows or denies your *Petition for Leave to Appeal*.

**What happens if the Illinois Supreme Court allows my *Petition for Leave to Appeal*?**

- If the Illinois Supreme Court allows your *Petition for Leave to Appeal*, you must file a *Notice of Election* within 14 days of the date the Court allows your *Petition for Leave to Appeal*. This tells the court whether you choose to use your *Petition for Leave to Appeal* as your brief, or to file a new brief.
- If the Supreme Court allows your *Petition for Leave to Appeal*, see the *Notice of Election* instructions and form for more details and next steps. You can find those here: [ilcourts.info/forms](http://ilcourts.info/forms).