



## Ohio Revised Code Section 2323.311 Indigent litigants.

Effective: March 22, 2019

Legislation: House Bill 595 - 132nd General Assembly

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(A) For purposes of this section, "indigent litigant" means a litigant who is unable to make an advance deposit or security for fees or costs as set forth in a civil action or proceeding.

(B)(1) In order to qualify as an indigent litigant, the applicant shall file with the court in which a civil action or proceeding is filed an affidavit of indigency in a form approved by the supreme court, or, until that court approves such a form, a form that requests substantially the same financial information as the financial disclosure and affidavit of indigency form used by the public defender for the appointment of counsel in a criminal case.

(2) The applicant's attorney, or if the litigant is proceeding pro se, the applicant shall file the affidavit of indigency with the court in which the civil action or proceeding is filed.

(3) Upon the filing of a civil action or proceeding and the affidavit of indigency under division (B)(1) of this section, the clerk of the court shall accept the action or proceeding for filing.

(4) A judge or magistrate of the court shall review the affidavit of indigency as filed pursuant to division (B)(2) of this section and shall approve or deny the applicant's application to qualify as an indigent litigant. The judge or magistrate shall approve the application if the applicant's gross income does not exceed one hundred eighty-seven and five-tenths per cent of the federal poverty guidelines as determined by the United States department of health and human services for the state of Ohio and the applicant's monthly expenses are equal to or in excess of the applicant's liquid assets as specified in division (C)(2) of section 120-1-03 of the Administrative Code, as amended, or a substantially similar provision. If the application is approved, the clerk shall waive the advance deposit or security and the court shall proceed with the civil action or proceeding. If the application is denied, the clerk shall retain the filing of the action or proceeding, and the court shall issue an order granting the applicant whose application is denied thirty days to make the required advance deposit or security, prior to any dismissal or other action on the filing of the civil action or proceeding.



(5) Following the filing of the civil action or proceeding with the clerk, the judge or magistrate, at any time while the action or proceeding is pending and on the motion of an applicant, on the motion of the opposing party, or on the court's own motion, may conduct a hearing to inquire into the applicant's status as an indigent litigant. The judge or magistrate shall affirm the applicant's status as an indigent litigant if the applicant's gross income does not exceed one hundred eighty- seven and five-tenths per cent of the federal poverty guidelines as determined by the United States department of health and human services for the state of Ohio and the applicant's monthly expenses are equal to or in excess of the applicant's liquid assets as specified in division (C)(2) of section 120-1-03 of the Administrative Code, as amended, or a substantially similar provision. If the court finds that the applicant qualifies as an indigent litigant, the court shall proceed with the action or proceeding. If the court finds that the applicant does not qualify as an indigent litigant or no longer qualifies as an indigent litigant if previously so qualified as provided in division (B)(4) of this section, the clerk shall retain the filing of the action or proceeding, and the court shall issue an order granting the applicant whose motion is denied thirty days to make a required deposit or security, prior to any dismissal or other action on the filing or pendency of the civil action or proceeding.

(6) Nothing in this section shall prevent a court from approving or affirming an application to qualify as an indigent litigant for an applicant whose gross income exceeds one hundred eighty-seven and five-tenths per cent of the federal poverty guidelines as determined by the United States department of health and human services for the state of Ohio, or whose liquid assets equal or exceed the applicant's monthly expenses as specified in division (C)(2) of section 120-1-03 of the Administrative Code, as amended, or a substantially similar provision.

(7) Any indigency finding by the court under this section shall excuse the indigent litigant from the obligation to prepay any subsequent fee or cost arising in the civil case or proceeding unless the court addresses the payment or nonpayment of that fee or cost specifically in a court order.

(C) If the indigent litigant as the prevailing party proceeds with an execution on the court's judgment as set forth in Chapter 2327., 2329., 2331., or 2333. of the Revised Code, in order to provide for the recovery of applicable costs, any payment on any execution of the judgment in favor of the indigent litigant shall be made through the clerk of the court. The clerk shall apply that payment to any outstanding costs prior to any disbursement of funds to the indigent litigant. The requirement described in this division may be waived upon entry of the court by the judge or magistrate. The



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remedy set forth in this division shall not be the exclusive remedy of the clerk of court for the payment of costs. The clerk shall have all remedies available under the law.