

POVERTY AFFIDAVIT

This packet contains forms and information on:

How to File a Case When You are Financially Unable

IMPORTANT

IF THERE IS ANY QUESTION in your mind concerning these forms, the use of these forms, or your legal rights, it is strongly recommended that the services of an attorney be obtained. If you do not know an attorney you should contact your local Bar Association.

If you are unable to afford the services of an attorney, you should contact the following organizations to see if you are eligible for their services:

- **Georgia Legal Services Program, Piedmont Regional Office (404) 894-7707**

DUE TO THE CHANGING NATURE OF THE LAW, the forms and information contained in these packets may become outdated. Therefore, you should review and research statutes and rules of procedure referenced in the instructions to ensure that the forms are accurate and current.

IN NO EVENT will the Clerk of Court or ADR Office or anyone contributing to the production of these forms, commentary, instructions, and appendices be liable for any indirect or consequential damages resulting from the use of the booklet.

USE THESE FORMS AT YOUR OWN RISK. THESE FORMS MAY OR MAY NOT BE APPROPRIATE IN YOUR PARTICULAR CASE. ANY DESIRED OUTCOME FROM THE USE OF THESE FORMS CANNOT BE PREDICTED OR GUARANTEED. IT IS STRONGLY RECOMMENDED THAT YOU SEEK LEGAL ADVICE.

It is advisable to have an attorney when filing legal papers to be sure that your rights are protected and that all the procedures are correctly followed. **Courthouse personnel are prohibited by state law O.C.G.A. § 15-19-51 from giving legal advice.** Different situations may require special procedures and courthouse personnel cannot advise you on how to proceed or what forms may be necessary in specific situations.

Be aware that answering questions about legal procedure (such as what the law requires you to do, how to prove your case, how to respond to requests by the opposing party or how to get that party to respond to your requests, how to comply with a law or a court order, etc.) constitutes “giving legal advice.” Georgia law strictly forbids anyone employed by the Clerk’s office, Sheriff’s office, judge’s chambers, or ADR office from answering such questions. *When you choose to represent yourself, it is your responsibility to research the law yourself and figure out what the law requires you to do and how you should proceed. The fact that you are not an attorney is not an excuse or an exception to this requirement.*

WHAT IS A POVERTY AFFIDAVIT?

If you are unable (not just reluctant) to pay the filing fee, you may file an *Affidavit of Indigence*, which is also referred to as a *Poverty Affidavit*. This is a request asking the Court to let you file your case for free.

A judge does not automatically grant these requests. You will be asked questions to help the judge decide if you truly cannot afford to pay the filing fee. You may be required to show proof of your income and your bills. Attach copies such as paycheck stubs or unemployment check stubs for the last three months, or any documents that verify your income.

You must present to the Court, along with your *Poverty Affidavit*, a completed and signed original of the action (*Petition for Divorce, Petition to Change Name, etc.*) that you are asking the Court to allow you to file without paying a filing fee.

The Official Code of Georgia states the law on *Poverty Affidavits* as follows:

9-15-2. Affidavit of indigence; effect; how contested; finality of court’s judgment; inquiry on court’s own motion; order to pay costs; effect on merits; procedure when filing party not represented by counsel.

- (a) (1) When any party, petitioner or respondent, in any action or proceeding held in any court in this state is unable to pay any deposit, fee, or other cost which is normally required in the court, if the party shall subscribe an affidavit to the effect that because of his indigence he is unable to pay the costs, the party shall be relieved from paying the costs and his rights shall be the same as if he had paid the costs.
- (2) Any other party at interest or his agent or attorney may contest the truth of an affidavit of indigence by verifying affirmatively under oath that the same is untrue. The issue thereby formed shall be heard and determined by the court, under the rules of the court. The judgment of the court on all issues of fact concerning the ability of a party to pay costs or give bond shall be final.
- (b) In the absence of a traverse affidavit contesting the truth of an affidavit of indigence, the court may inquire into the truth of the affidavit of indigence. After a hearing, the court may order the costs to be paid if it finds that the deposit, fee, or other costs can be paid and, if the costs are not paid within the time permitted in such order, may deny the relief sought.
- (c) The adjudication of the issue of indigence shall not affect a decision on the merits of the pending action.
- (d) When a civil action is presented for filing under this Code Section by a party who is not represented by an attorney, the clerk of court shall not file the matter but shall present the petition or other initial pleading shows on its face such a complete absence of any justiciable issue of law or fact that it cannot be reasonably believed that the court could grant any relief against any party named in the pleading, then the judge shall enter an order denying filing of the pleading. If the judge does not so find, then the judge shall enter an order allowing filing and shall return the pleading to the clerk for filing as in other cases. An order denying filing shall be appealable in the same manner as an order dismissing an action.

History (Ga. L. 1955, p. 584, §§ 1, 2; Ga. L. 1982, p. 933, § 1; Ga. L. 1983, p. 3, § 7; Ga. L. 1984, p. 22, § 9; Ga. L. 1985, p. 1256, § 1.)

**IN THE SUPERIOR COURT OF HENRY COUNTY
STATE OF GEORGIA**

Petitioner: _____

and

Respondent: _____

Civil Action File No.: _____

POVERTY AFFIDAVIT

Comes now _____, the Petitioner in the above styled

_____ [Enter the name of the Petition], being first duly sworn, deposes and says:

1. That I, by reason of my poverty, am unable to pay the cost deposit required by O.C.G.A. § 5-6-77 to file a civil case, in the courts of Henry County.
2. That I am _____ years of age, and my monthly household income is \$ _____. A copy of my last three pay stubs/unemployment checks/other proof of income source is attached.
3. That I live at _____, and pay \$ _____ per month as rent.
4. My household consists of _____ adult(s) including myself and _____ minor(s).
5. That I pay the following bills each month:

Name of Bill	Amount of Bill

6. That I hereby request that I be able to proceed in this action without having to pay filing fees and associated costs.

Signed this _____ day of _____.
[day] [month] [year]

(Sign your name here before Notary) Petitioner, *Pro se*

Petitioner's name (print or type): _____

Petitioner's Address: _____

Petitioner's Telephone Number: _____

Sworn to and affirmed before me, this
_____ day of _____.

NOTARY PUBLIC

My commission expires: _____

(Notary Seal)

**IN THE SUPERIOR COURT OF HENRY COUNTY
STATE OF GEORGIA**

Petitioner: _____

and

Respondent: _____

Civil Action File No.: _____

ORDER

This Court, having considered the Petitioner's request to file a _____ *[Enter the name of the Petition]*, **in forma pauperis**, hereby (grants) (denies) the request.

Signed this _____ day of _____.

[day] [month] [year]

Judge, Henry Superior Court
Flint Judicial Circuit