

Applying for Indigency Status: Step-by-Step

Family Law Self-Help Guide



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Yukon Government Legal Information Resources

Family Law Information Centre

867-456-6721, or toll free 1-800-661-0408 ext. 6721, www.yukonflic.ca

Court Registry

867-667-5441, or toll-free 1-800-661-0408 ext. 5441

Law Library

867-667-3086, or toll-free 1-800-661-0408 ext. 3086

Maintenance Enforcement Program (Information Line)

867-667-5437, or toll-free 1-800-661-0408 ext. 5437, www.yukonmep.ca

Sheriff's Office

867-667-5365, or toll-free 1-800-661-0408 ext. 5365

Non-Government Legal Information Resources

The Law Line (Yukon Public Legal Education Association – YPLEA)

867-668-5297, or toll free 1-800-668-5297, www.yplea.com

Legal Aid (Yukon Legal Services Society – YLSS)

867-667-5210, or toll free 1-800-661-0408 ext. 5210, www.legalaid.yk.ca

Lawyer Referral Service (Law Society of Yukon)

867-668-4231, www.lawsocietyyukon.com

Family Support Services

Many Rivers Counseling and Support Services

867-667-2970, call collect from outside of Whitehorse, www.manyrivers.yk.ca

Victoria Faulkner Women's Centre

867-667-2693, www.vfwc.net

Family Violence Prevention Unit

867-667-3581, or toll free 1-800-661-0408 ext. 3581, www.justice.gov.yk.ca/prog/cor/vs

Kids Help Line

1-800-668-6868

Applying for Indigency Status: Step-by-Step

Step 1	Research the laws and rules that apply to your application
Step 2	Collect your supporting documents
Step 3	Prepare and complete forms
Step 4	Make copies of all your forms and documents
Step 5	Have your Financial Statement and Affidavit notarized
Step 6	File your forms with the Supreme Court

IMPORTANT!

This guide has been produced by the Yukon Department of Justice, Court Services Branch, with financial assistance from Justice Canada. It is intended to be used as a guide only and is not considered a comprehensive legal resource.

The information provided does not replace a lawyer's advice and cannot teach you everything you need to know. Even if you decide to proceed without a lawyer, you should consult a lawyer for interpretation of the law that applies to your case and for other legal advice.

The information provided in this guide is believed to be correct as of its date of publication in May 2013.

Basic Information on Applying for Indigency Status

A court order is a decision by a judge that the people named in it must follow. This guide provides step-by-step instructions for applying to the Supreme Court of Yukon for a court order for indigency status that is set out in the Rules of Court. The judge will make a decision based on the information (evidence) provided by the applicant and the laws that apply to your situation. Indigency status refers only to court fees (fees payable to the court to file documents); it does not relate to other fees and/or costs payable to outside agencies or court costs.

Contact the Family Law Information Centre at 867-456-6721, toll free 1-800-661-0408 ext. 6721, or visit their website at www.yukonflic.ca for more information and links to publications.

Applying for a Court Order: Step-by-step

Step 1: Research the laws and rules that apply to your matter

Before you begin, you should research the laws and rules that apply to your situation, specifically **Rule 43: Orders and Appendix C, Schedule 1, Item S1 of the Rules of Court**. You should consult a lawyer for interpretation of the law that applies to your case and for other legal advice

Step 2: Collect your supporting documents

You are required to provide financial information regarding your income and provide any documents that support this information. These documents may include: income tax assessments, payroll records or other income records. You will also need to collect any other documents that you will be submitting as evidence. You may choose, or the court may direct, that you complete a **Financial Statement - Form 94**.

Step 3: Prepare and complete forms

To apply for a court order, you will need to fill out forms to submit to the court registry with information specific to your case. Supreme Court forms can be found in Microsoft Word format at www.yukoncourts.ca under Supreme Court, Yukon Rules and Forms. The staff at the **Family Law Information Centre** can help you to complete your Supreme Court forms either over the telephone or on one of the workstations at their office. They cannot provide legal advice or tell you what to write in your court forms, but they can provide guidance on the rules for completing the forms and help with using Microsoft Word.

The forms you need to file when applying for an indigency status order are:

- A) **Requisition for Order – Form 3**
- B) **Affidavit - Form 59**
- C) **Order Without Notice – Form 54**

To provide financial information you may also need to file:

D) Financial Statement – Form 94

Completing your forms:

A) Requisition – Form 3

This form states what order you are asking the court to grant and the laws (statutes and regulations) you will be relying on. **Rule 43: Orders** sets out the procedure for applications without notice. You must specifically state your request – do you want to be declared indigent for filing a single document or for the entire proceeding? Refer to the **Rules of Court: Appendix C, Schedule 1, Item S1**, paragraph (2) for specific information.

The parties will be named Plaintiff and Defendant or Petitioner and Respondent. How they are named depends on the document that you are intending to file.

If you have not supplied an “Address for Delivery” on previously filed documents, you must add the address at the bottom of this form. Your address for delivery must include a residential or business address and a postal address in Yukon.

B) Affidavit - Form 59

The affidavit is a very important document because it contains most of your evidence. There are special rules for preparing an affidavit. The Yukon Department of Justice has published an information sheet titled **Preparing an Affidavit (Family Law)** to help you complete an **Affidavit – Form 59**.

An affidavit is the document that states any information that you want the judge to know. Filing an Affidavit is a way to give written evidence to the court. Your affidavit and all exhibits must be sworn. (See **Step 5: Have your Financial Statement and Affidavit notarized**). Do not sign your document until you are having it sworn before the Notary Public or other qualified person!

You must provide financial information in your Affidavit explaining to the court why you should not be required to pay court fees. You must also provide a copy of the document that you are planning on filing by attaching it as an exhibit to your Affidavit. This is to satisfy the court that **Appendix C, Schedule 1 of the Rules of Court** has been satisfied. You must not change the document that you are intending to file between the time that you file the Affidavit (with the document attached) and the time that you file it with the court, unless the court orders you to change it.

NOTE: If you have more than one supporting document (exhibit) to attach to any affidavit, you must place consecutively numbered tabs on the first page of each exhibit. Also, each page of an individual exhibit must be numbered consecutively. For more information on rules for affidavits, see **Rule 49: Affidavits**.

AN IMPORTANT CAUTION: Be sure that your evidence is complete, accurate, clear and relevant to your application. You must, in all cases, tell the truth. In your affidavit you can only say things that you know personally to be true or things that you believe to be true and you must give a reason for that belief. There are serious legal consequences for not telling the truth in a sworn document. The other party or other party's lawyer can cross-examine you about anything you include in your affidavit.

C) Order Without Notice – Form 54

This form must be typed and states what you wish the court to order. Refer to example below:

Form 54
(Rules 43 (7)(a)(ii) and 43 (13)(b))

S.C. _____ **1**

SUPREME COURT OF YUKON

Between _____ **2** Plaintiff/ Petitioner

and _____ **3** Defendant/ Respondent

ORDER WITHOUT NOTICE

BEFORE A JUDGE OF THE COURT) _____ day, the
) _____ day of _____, 20

THE APPLICATION of _____ **2 or 3** _____, without a hearing and without notice.

THIS COURT ORDERS that the Applicant is indigent for the purposes of the *Rules of Court*, Appendix C, Schedule 1 for Supreme Court action number _____ **1** _____.

By the Court

Clerk of the Court

Approved as the Order made:
_____ **4** _____
Party

- 1.** This is the court file number
 - if this is a new file, the clerk will assign a court number and stamp the number here;
 - if a file number has already been assigned to this case, you must insert that number here.

- 2.** The Plaintiff/Petitioner is the person that starts the court action by filing the originating court documents (Statement of Claim, Petition, or other document).

- 3.** The Defendant/Respondent is the other person(s) named in the proceeding.

Remove the litigant type that is incorrect (ex. Plaintiff, etc.) leaving the correct title (ex. Petitioner).

People named in court proceeding are referred to as litigants. The litigant type/ titles remain the same throughout the proceeding.

- 4.** Your signature goes here.

Leave all other areas blank as shown on the sample.

D) Financial Statement – Form 94 (if required)

This form states the income, debt, expenses and assets of the applicant. You may be required to complete this form depending on your circumstances or the court may order that you file this form even if you are not required to do so under Rule 43: Orders. This form contains very specific instructions; only complete the sections that apply to your situation. Your Financial Statement and supporting documents must be notarized (See **Step 5: Have your Financial Statement and Affidavit notarized**). Do not sign your document until you are having it sworn before a Notary Public or other qualified person.

Step 4: Make copies of all your forms and documents

You will need two sets of your forms to submit for filing. The originals filed documents will always remain on the court file and the other copy of each document will be returned to you. Keep this set for your own records.

Step 5: Have your Affidavit and Financial Statement notarized

The Affidavit and Financial Statement must be sworn/notarized. Bring all copies of your documents and proof of identification with you to be sworn by a Notary Public or someone else who is allowed to hear an oath, such as a lawyer, justice of the peace or a commissioner of oaths. Some government staff members are Notaries Public, including those working in the Court Registry, Sheriff's Office and the Family Law Information Centre.

Step 6: File your forms with the Supreme Court

When you mail or bring your forms to the Supreme Court registry for filing, the clerk will review your forms before accepting them. The clerk will review your documents to verify that you have followed the Rules of Court but s/he will not provide advice or comment on the content of your documents. When the clerk accepts your forms, a file will be opened and a Supreme Court file number will be assigned to your case (unless there is an existing court file). This number will be written on your forms in the upper right-hand corner next to "S.C. No." and will be used to reference your case throughout your court proceeding. It must be recorded on all future forms. Your forms will be stamped by the clerk with the date that they were filed.

There is no fee for filing an application for indigency status.

Additional Steps

The clerk will submit your application to the judge for review. The clerk will contact you after the judge has reviewed your application to let you know if your order has been approved or if anything further is required.

If your order is approved, you may proceed with court proceedings without paying court fees. As court staff receive and process many court documents and deal with many people filing these documents, they may not remember that you are not required to pay court fees so when filing documents in your proceeding, you should remind the clerk that you are not required to pay court fees and refer him/her to the court order which will be kept on the court file.

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For more information, or to obtain copies of these publications, please contact:

Government of Yukon, Department of Justice

Court Services

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www.justice.gov.yk.ca

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