

**RAP 15.2**  
**DETERMINATION OF INDIGENCY AND RIGHTS**  
**OF INDIGENT PARTY**

**CURRENTNESS**

**(a) Motion for Order of Indigency.** A party seeking review in the Court of Appeals or the Supreme Court partially or wholly at public expense must move in the trial court for an order of indigency. The party shall submit a Motion for Order of Indigency, in the form prescribed by the Office of Public Defense.

**(b) Action by the Trial Court.** The trial court shall determine the indigency, if any, of the party seeking review at public expense. The determination shall be made in written findings after a hearing, if circumstances warrant, or by reevaluating any order of indigency previously entered by the trial court. The court:

(1) shall grant the motion for an order of indigency if the party seeking public funds is unable by reason of poverty to pay for all or some of the expenses for appellate review of:

(A) criminal prosecutions or juvenile offense proceedings meeting the requirements of RCW 10.73.150.

(B) dependency and termination cases under RCW 13.34,

(C) commitment proceedings under chapters 71.05 and 71.09 RCW,

(D) civil contempt cases directing incarceration of the contemner,

(E) orders denying petitions for writ of habeas corpus under chapter 7.36 RCW, including attorneys' fees upon a showing of extraordinary circumstances, and

(F) any other case in which the party has a constitutional or statutory right to counsel at all stages of the proceedings; or

(2) shall deny the motion for an order of indigency if a party has adequate means to pay all of the expenses of review or if the case is not one of the case types listed in subsection (b)(1). If the motion was denied because the party has adequate means to pay, the order denying the motion for an order of indigency shall contain findings designating the funds or source of funds available to the party to pay all of the expenses of review.

**(c) Order of Indigency.** An order of indigency shall designate the items of expense that are to be paid with public funds and, where appropriate, the items of expense to be paid by a party or the amount that the party must contribute toward the expense of review. The order shall designate the extent to which public funds are to be used for payment of the expense of the record on review, limited to those parts of the record reasonably necessary to review issues argued in good faith. The order of indigency must be transmitted to the appellate court as a part of the record on review.

**(d) Continued Indigency Presumed.** A party and counsel for the party who has been granted an order of indigency must bring to the attention of the appellate court any significant improvement during review in the financial condition of the party. The appellate court will give a party the benefits of an order of indigency throughout the review unless the appellate court finds the party's financial condition has improved to the extent that the party is no longer indigent.

**(e) Appointment and Withdrawal of Counsel in Appellate Court.** The appellate court shall determine questions relating to the appointment and withdrawal of counsel for an indigent party on review. The Office of Public Defense shall, in accordance with its indigent appellate representation policies, provide the names of indigent appellate counsel to the appellate courts on a case-by-case basis. If trial counsel is not appointed, trial counsel must assist counsel appointed for review in preparing the record.

**(f) Review of Order of Indigency.** A party in a case of a type listed in subsection (b)(1) of this rule may seek review of an order of indigency or an order denying an order of indigency entered by a trial court. A party may object to an indigency decision of the trial court by motion in appellate court.

**(g) Withdrawal of Counsel in Appellate Court.** If counsel can find no basis for a good faith argument on review, counsel should file a motion in the appellate court to withdraw as counsel for the indigent as provided in rule 18.3(a).

### **References**

Form 12, Order of Indigency; Rule 2.3, Decisions of the Trial Court Which May Be Reviewed by Discretionary Review.

[Adopted effective July 1, 1976; Amended effective July 2, 1976; July 1, 1978; January 1, 1980; September 1, 1994; June 1, 1999; December 28, 1999; December 24, 2002; September 9, 2004; July 1, 2005; January 3, 2006; September 1, 2010; January 31, 2017; September 1, 2017; September 1, 2018; May 2, 2023.]