

## **Tex. R. Civ. P. 145**

The State and Federal rules are current through February 29, 2024. Local District rules are updated periodically throughout the year.

***TX - Texas Local, State & Federal Court Rules > TEXAS RULES OF CIVIL PROCEDURE > PART II. RULES OF PRACTICE IN DISTRICT AND COUNTY COURTS > SECTION 6. Costs and Security Therefor***

### **Rule 145. Payment of Costs Not Required.**

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**(a) Costs Defined.** “Costs” mean any fee charged by the court or an officer of the court, including, but not limited to, filing fees, fees for issuance and service of process, fees for copies, fees for a court-appointed professional, and fees charged by the clerk or court reporter for preparation of the appellate record.

**(b) Sworn Statement Required.** A party who cannot afford payment of court costs must file the Statement of Inability to Afford Payment of Court Costs approved by the Supreme Court or another sworn document containing the same information. A “sworn” Statement is one that is signed before a notary or made under penalty of perjury. In this rule, “declarant” means the party filing the Statement.

**(c) Duties of the Clerk.** The clerk:

- (1) must make the Statement available to any person for free without request;
- (2) may return a Statement for correction only if it is not sworn—not for failure to attach evidence or any other reason; and
- (3) must, on the filing of a sworn Statement, docket the case, issue citation, and provide any other service that is ordinarily provided to a party.

**(d) Prima Facie Evidence of Inability to Afford Payment of Costs.** The declarant should submit with the Statement any available evidence of the declarant’s inability to afford payment of costs. An attachment demonstrating any of the following is prima facie evidence:

- (1) the declarant or the declarant’s dependent receives benefits from a means-tested government entitlement program;
- (2) the declarant is being represented in the case by an attorney who is providing legal services to the declarant through:
  - (A) a provider funded by the Texas Access to Justice Foundation;
  - (B) a provider funded by the Legal Services Corporation; or
  - (C) a nonprofit that provides civil legal services to persons living at or below 200% of the federal poverty guidelines published annually by the United States Department of Health and Human Services; or

(3) the declarant has applied for free legal services for the case through a provider listed in (2) and was determined to be financially eligible but was declined representation.

**(e) Motion to Require Payment of Costs.** A motion to require the declarant to pay costs must comply with this paragraph.

**(1) By the Clerk, the Reporter, or a Party.** A motion filed by the clerk, the court reporter, or a party must contain sworn evidence—not merely allegations—either that the Statement was materially false when made or that because of changed circumstances, it is no longer true.

**(2) By the Court.** The court on its own may require the declarant to prove the inability to afford costs when evidence comes before the court that the declarant may be able to afford costs or when an officer or professional must be appointed in the case.

**(f) Notice; Hearing; Requirements of Order.** When a Statement has been filed, the declarant must not be ordered to pay costs unless these procedural requirements have been satisfied:

**(1) Notice and Hearing.** The declarant must not be required to pay costs without an oral evidentiary hearing. The declarant must be given 10 days' notice of the hearing. Notice must either be in writing and served in accordance with Rule 21a or given in open court. At the hearing, the burden is on the declarant to prove the inability to afford costs.

**(2) Findings Required.** An order requiring the declarant to pay costs must be supported by detailed findings that the declarant can afford to pay costs.

**(3) Partial and Delayed Payment.** The court may order that the declarant pay the part of the costs the declarant can afford or that payment be made in installments. But the court must not delay the case if payment is made in installments.

**(4) Order Must State Notice of Right to Appeal.** An order requiring the declarant to pay costs must state in conspicuous type: "You may challenge this order by filing a motion in the court of appeals within 10 days after the date this order is signed. See *Texas Rule of Civil Procedure 145.*"

**(g) Review of Trial Court Order.**

**(1) Only Declarant May Challenge; Motion.** Only the declarant may challenge an order issued by the trial court under this rule. The declarant may challenge the order by motion filed in the court of appeals with jurisdiction over an appeal from the judgment in the case. The declarant is not required to pay any filing fees related to the motion in the court of appeals.

**(2) Time for Filing; Extension.** The motion must be filed within 10 days after the trial court's order is signed. The court of appeals may extend the deadline by 15 days if the declarant demonstrates good cause for the extension in writing.

**(3) Record.** After a motion is filed, the court of appeals must promptly send notice to the trial court clerk and the court reporter requesting preparation of the record of all

trial court proceedings on the declarant's claim of indigence. The court may set a deadline for filing the record. The record must be provided without charge.

**(4) Court of Appeals to Rule Promptly.** The court of appeals must rule on the motion at the earliest practicable time.

**(h) Judgment.** The judgment must not require the declarant to pay costs, and a provision in the judgment purporting to do so is void, unless the court has issued an order under (f), or the declarant has obtained a monetary recovery, and the court orders the recovery to be applied toward payment of costs.

**(i) Court to Designate Record.** When the declarant requests preparation of the reporter's record, the court must designate the portions to be transcribed.