

TAKING AN APPEAL FROM A FAMILY COURT ORDER

In order to take an appeal as of right to the Appellate Division, Fourth Department, from an order of the Family Court, you must file with the Family Court Clerk the original of a notice of appeal and serve a copy of the notice of appeal on any adverse party and on the Attorney for the Child, if any. Two copies of the notice of appeal, together with proof of service, must also be filed with the Family Court Clerk. The notice of appeal must be filed and served no later than thirty (30) days after you were served by another party or the Attorney for the Child with the order you want to appeal, or thirty (30) days from the date on which you received the order in court or thirty-five (35) days from the date on which the clerk of the court mailed you the order, whichever date is earliest. See Family Court Act § 1113 as to the time within which an appeal must be taken.

Once a notice of appeal has been filed and served, you must "perfect" your appeal within six (6) months of the date of the notice of appeal, in accordance with the rules of this Court (see "Taking and Perfecting an Appeal"). If you cannot afford to pay the costs of the appeal or of an attorney, you may apply for permission to appeal as a poor person and for assignment of counsel.

In order to apply for poor person relief and assignment of counsel, you must file the following documents with the Clerk of the Appellate Division: (1) a notice of motion with a specified return date (any Monday or the first business day of the week if Monday is a legal holiday, after the required notice period); (2) a supporting financial affidavit; (3) a copy of the notice of appeal that was filed with the clerk of Family Court, with proof of filing; (4) proof of service of the notice of appeal on the opposing parties and the attorney for the child(ren), if any; (5) a copy of the order of Family Court appealed from (together with the court's written decision, if any); and (6) proof of service of a copy of all motion papers on the County Attorney, all parties, and the attorney for the child(ren) if any, at least 13 days prior to the return date if service was made by regular mail (9 days if served by overnight delivery; 8 days if personally served).