



Rules of
Public Defender Commission
Division 10—Office of State Public Defender
Chapter 3—Guidelines for the
Determination of Indigence

Title	Page
18 CSR 10-3.010 Guidelines for the Determination of Indigence	3



**Title 18—PUBLIC DEFENDER
COMMISSION**

**Division 10—Office of State Public
Defender**

**Chapter 3—Guidelines for the
Determination of Indigence**

**18 CSR 10-3.010 Guidelines for the Deter-
mination of Indigence**

*PURPOSE: This rule establishes the guide-
lines for the determination of indigence and
prescribes a form for that purpose.*

(1) Eligibility for Representation.

(A) A person shall be considered eligible for representation when it appears from all the circumstances of the case including his/her ability to make bond, his/her income and the number of persons dependent on him/her for support that the person does not have the means at his/her disposal or available to him/her to obtain counsel in his/her behalf and is indigent as hereafter determined.

(B) The determination of indigence of any person seeking the services of the State Public Defender System shall be made by the defender or anyone serving under him/her at any stage of the proceeding. Upon motion by either party, the court in which the case is pending shall have authority to determine whether the services of the public defender may be utilized by the defendant. Upon the court's finding that the defendant is not indigent, the public defender shall no longer represent the defendant.

(2) Public Assistance.

(A) Applicants receiving public assistance are eligible for defense services provided by Missouri State Public Defender. Supplemental Nutrition Assistance Program (SNAP); Special Supplemental Nutrition Program for Women, Infants, and Children (WIC); Temporary Assistance for Needy Families (TANF); Medicaid; public housing payments; childcare assistance; Supplemental Security Income; and similar benefits are considered public assistance.

(B) If an applicant is receiving disability payments, pension, unemployment compensation, Veteran's benefits, or Social Security retirement or disability benefits, this is considered income and the amount of the payment must be considered.

(3) Ability to Make Bond.

(A) The ability of an applicant to make a cash bond shall be considered on the question of indigence. Any amount of cash bond posted directly to the court shall be considered as

a means available to the applicant to obtain counsel, and compared directly to the probable expense and burden of defending the pending case. The ability of an applicant to make a surety bond in excess of forty-nine thousand nine hundred ninety-nine dollars (\$49,999) should be considered on the question of whether the applicant has the means at his/her disposal or available to him/her to obtain counsel in his/her behalf.

(4) Ability to Hire Private Counsel on a Pending Case.

(A) The ability of an applicant to hire private counsel on one case should be considered as evidence that the applicant has means available to obtain counsel on the subsequent case in which the applicant seeks services, unless the assumed cost of private counsel on the case(s) without representation greatly exceeds that of the case(s) with representation.

(5) Maximum Qualifying Income Scale.

(A) A defendant may be considered indigent if his/her gross pay and other sources of income do not exceed one hundred fifty percent (150%) of the federal poverty guideline as issued in the *Federal Register* by the U.S. Department of Health and Human Services.

(B) When making the financial determination, the following factors should be taken into consideration:

1. Spouse's Income—If the applicant is married and not separated from his/her spouse, the spouse's financial status shall be considered unless the spouse is the alleged victim; and

2. Parent's Income—The income of a parent who is financially responsible for a child under eighteen (18) years of age must be considered, unless the parent is an alleged victim, or an alleged victim is a member of the family of the child or the family of the parent. Eligibility is not forfeited when the person financially responsible for the child is able to hire counsel but does not do so if the child does not have the means at his/her disposal to hire counsel. Children under eighteen (18) years of age without the means at their disposal to hire counsel are presumed to be indigent when in the legal custody of Missouri Department of Social Services/Children's Division, or when the child is detained and the parent or custodian cannot be located or does not comply with the application process.

(6) Discretionary Aspects of Determining Indigence.

(A) The previously mentioned financial criteria are to be applied in all cases and con-

sidered with the probable expense and burden of defending the case.

(B) An applicant who is currently receiving services from the public defender, or who has received those services within the last twelve (12) months shall be presumed indigent and eligible for services unless the applicant's application indicates a change in circumstances which would make the applicant not indigent.

(C) An individual requesting public defender service shall complete and sign an Application for Public Defender Services.

AUTHORITY: sections 600.017(10), 600.086, and 600.090, RSMo 2016. Original rule filed Nov. 12, 1985, effective Feb. 13, 1986. Amended: Filed Feb. 14, 2002, effective Aug. 30, 2002. Amended: Filed July 24, 2006, effective Jan. 30, 2007. Amended: Filed Dec. 29, 2021, effective July 30, 2022.*

**Original authority: 600.017, RSMo 1982; 600.086, RSMo 1976, amended 1982, 1993; and 600.090, RSMo 1976, amended 1982, 1986, 2016.*