



**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 Upon the court's finding that the defendant is not indigent, the public defender shall no longer represent the defendant.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, Unemployment Compensation and Income Maintenance Payments.

(A) Unemployed defendants receiving public assistance are eligible for defense services provided by the Office of State Public Defender regardless of the amount of the benefits. If the defendant is receiving public assistance and has a part-time job, or other assets, the weekly amount of benefits and the additional source of income should be added together and compared to the maximum Qualifying Income Scale to Determine Indigence.

(B) If a defendant is receiving disability payments, pension, unemployment compensation or Social Security, this is considered income and the amount of the payment must be considered.

(3) Maximum Qualifying Income Scale.

(A) A defendant may be considered indigent if his/her gross pay and other sources of

income do not exceed 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. Debts and Expenses—Debts should be taken into consideration to the extent that they are reasonable and necessary. Debts are considered only if actual payments are being made;

2. Spouse's Income—The spouse's financial status shall be considered unless the spouse is the alleged victim;

3. Parent's Income—The parent's income should be considered if they support the defendant and the defendant is under eighteen (18) years of age unless a parent is an alleged victim of the charged offense. Defendants eighteen (18) years or older shall be considered independent from family income unless they are full-time students or are dependent upon their parents or when one or both parents post bond; and

4. Assets—If the person owns or is buying a home, the equity must be determined and considered on the question of indigence. Bank accounts, stocks, bonds, jewelry, equity in insurance and any other financial assets must be considered.

(4) Discretionary Aspects of Determining Indigence.

(A) The previously mentioned financial criteria are to be applied in all cases and considered with the probable expense and burden of defending the case. If a person is determined to be eligible for the services provided by the State Public Defender System and if, at the time such determination is made, s/he is able to provide a limited cash contribution toward the cost of representation without imposing a substantial hardship upon himself/herself or his/her dependents, such contribution shall be required as a condition of his/her representation by the State Public Defender System. If at any time, either during or after the disposition of his/her case, such defendant becomes financially able to meet all or some part of the cost of services rendered to him/her, he shall be required to reimburse the commission in such amounts as s/he can reasonably pay, either by a single payment or by installments of reasonable amounts, in accordance with a schedule of charges for public defender services prepared by the commission; and

(B) 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 2000. 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.*

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