



Rules of
Public Defender Commission
Division 10—Office of State Public Defender
Chapter 2—Definition of Eligible Cases

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**Title 18—PUBLIC DEFENDER
COMMISSION**

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

Chapter 2—Definition of Eligible Cases

**18 CSR 10-2.010 Definition of Eligible
Cases**

PURPOSE: This rule establishes the types of cases for which the State Public Defender System will provide representation to indigent accused.

(1) The director and defenders shall provide legal services to an eligible person—

(A) Who is detained or charged with a felony, including appeals from a conviction in a case;

(B) Who is detained or charged with a misdemeanor which will probably result in confinement in the county jail upon conviction, including appeals from a conviction in a case;

(C) Who is detained or charged with a violation of probation or parole;

(D) Who has been taken into custody pursuant to section 632.489, RSMo, including appeals from a determination that the person is a sexually violent predator;

(E) For whom the federal constitution or the state constitution requires the appointment of counsel; and

(F) For whom, in a case in which s/he faces a loss or deprivation of liberty, any law of this state requires the appointment of counsel; however, the director and the defenders shall not be required to provide legal services to persons charged with violation of county or municipal ordinances.

(2) Employees of the State Public Defender System shall not serve as hybrid, standby, or advisory counsel in any matter.

(3) Definition of Standby, Hybrid, and Advisory Counsel.

(A) For purposes of determining eligibility under this section—

1. The terms “standby,” “hybrid,” and “advisory counsel” are defined as attorneys who are appointed by the court to consult with or assist a defendant, appellant, or movant in the preparation or presentation of evidence or legal argument in any court or tribunal where that defendant, appellant, or movant has waived the right to counsel or asserted his right to full or partial self-representation.

(4) The State Public Defender System shall not represent a person who faces a loss or deprivation of liberty pursuant to section 632.415, RSMo.

AUTHORITY: sections 600.017(10) and 600.043, RSMo 2000 and sections 600.042.1(8) and 600.042.3, RSMo Supp. 2010.* Original rule filed Jan. 9, 1985, effective April 11, 1985. Amended: Filed Feb. 14, 2002, effective Aug. 30, 2002. Amended: Filed Dec. 27, 2007, effective July 30, 2008. Amended: Filed July 8, 2010, effective Feb. 28, 2011.

*Original authority: 600.017, RSMo 1982; 600.042, RSMo 1982, amended 1991, 1993, 1995, 1999, 2006; and 600.043, RSMo 1982.

Rule Action Notice: On December 24, 2009, the Missouri Supreme Court, in *STATE ex rel. MISSOURI PUBLIC DEFENDER COMMISSION, J. MARTY ROBINSON, AND WAYNE WILLIAMS, Relators, v. THE HONORABLE KENNETH W. PRATTE, Respondent*, 298 S.W.3d 870 (Mo banc 2009), struck down certain provisions of the rule that permitted the public defender to deny representation to defendants who at anytime during the pendency of their cases retained private counsel. The court invalidated sections 18 CSR 10-2.010(2) and (3).