

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

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

Title 18—PUBLIC DEFENDER COMMISSION

Division 10—Office of State Public Defender

Chapter 3—Guidelines for the Determination of Indigency

18 CSR 10-3.010 Guidelines for the Determination of Indigency

PURPOSE: This rule establishes the guidelines for the determination of indigency and prescribes a form for that purpose.

(1) 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 Indigency.

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

(2) Maximum Qualifying Income Scale.

(A) A defendant may be considered indigent if his/her take-home pay and other sources of income do not exceed one hundred dollars (\$100) plus twenty dollars (\$20) per week for each dependent the defendant is supporting. For example, a defendant who supports two (2) children and one (1) unemployed spouse would qualify if the net salary does not exceed one hundred sixty dollars (\$160).

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

1. Debts—Debts should be taken into consideration to the extent that payments reduce the take-home pay below the eligibility level. Debts caused by hospital bills, taxes, fines, child support and alimony are allowable only if actual payments on debts are being made;

2. Bond—If the defendant has been released on bail on any case in the amount of five thousand dollars (\$5000) or more, a presumption is created that the defendant is not indigent and the ability of the defendant to meet the bail must be given consideration;

3. Spouse's Income—The spouse's income should be considered if the spouse is employed and supports the defendant. The income shall

also be considered if they share the household expenses;

4. 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. 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 the parents or a relative post bond;

5. Mortgage—If the defendant owns or is buying a home, the defendant's equity must be determined. If defendant's equity exceeds ten thousand dollars (\$10,000), the defendant would not qualify for a public defender; and

6. Assets—Unless the defendant is charged with a Class A felony, cash in excess of five hundred dollars (\$500) is a presumption of non-indigency. Bank accounts, stocks, bonds, jewelry, equity in insurance and any other financial assets must be considered. All vehicles are assets and must also be considered. If the total value of the asset(s) is more than one thousand dollars (\$1000), the defendant is presumed not to be indigent.

(3) Discretionary Aspects of Determining Indigency.

(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. When the presumption exists that a defendant is not indigent, the defendant may still qualify for public defense services by paying that portion of defense costs which s/he may be able to pay without substantial hardship to him/herself for his/her family;

(B) If a defendant is found not indigent and not eligible for a public defender, s/he has the right to appeal that decision to the court; and

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

Auth: sections 600.017(10) and 600.086, RSMo (1986). Original rule filed Nov. 12, 1985, effective Feb. 13, 1986.