

## Chapter SPD 3

## INDIGENCY CRITERIA

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**SPD 3.01 General rule.** A person shall be eligible for the assignment of publicly compensated counsel if the anticipated cost of retaining counsel exceeds the person's available assets.

**History:** Cr. Register, August, 1978, No. 272, eff. 9-1-78.

**SPD 3.02 Cost of retained counsel.** (1) The "anticipated cost of retaining counsel," which shall constitute attorneys fees only, shall be determined by this schedule:

	In counties in which hourly rate is \$40 or more	In counties in which hourly rate is less than \$40
1st or 2nd degree murder	\$3500	\$3000
Other armed felony	2200	1800
Drug related felony	1600	1200
Other felony	1600	1200
Traffic misdemeanor	400	300
Other misdemeanor	500	400
Juvenile	500	400
Civil commitment	565	450
Appeal to court of appeals	2000	1500

(2) Beginning in July, 1979, and every July thereafter, the state public defender shall survey the attorneys certified under s. 977.08, and the board may revise the schedule of the "anticipated cost of retaining counsel."

**History:** Cr. Register, August, 1978, No. 272, eff. 9-1-78.

**SPD 3.03 Computation of available assets.** (1) A person's "available assets" shall be determined by adding together:

(a) The person's liquid assets as defined in s. 977.07 (2);

(b) The amount which could be raised by a loan on the person's non-liquid assets as provided in s. 977.07 (2), which, unless otherwise apparent, shall be computed as one-fourth the person's equity in such property; and

(c) The amount of income or other money the person anticipates receiving during the pendency of the case, and subtracting from that sum the amount required to provide the necessities of life for that person and those dependent on that person, during the pendency of the case.

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(2) The "amount required to provide the necessities of life," means 100% of the standards specified in s. 49.19(11) (a) 1, plus other specified, emergency, or essential costs and the cost of posting bond to obtain release.

(3) The state public defender shall annually review the indigency standards specified herein and revise those standards as required.

(4) For the purposes of this section felony and appellate cases are pending for 8 months, all other cases for 4 months.

**History:** Cr. Register, August, 1978, No. 272, eff. 9-1-78; am. (2), Register, August, 1981, No. 308, eff. 9-1-81.

**SPD 3.035 Consideration of need for expert services.** (1) If it appears probable at the time the indigency determination is made that it will be necessary to retain expert assistance in a case, the anticipated cost of retaining such assistance shall be added to the "anticipated cost of retaining counsel" under SPD 3.02.

(2) If a person has retained counsel, but subsequently finds that he or she lacks sufficient assets to both retain counsel and the necessary assistance:

(a) That person may apply for public representation after commencement of the case under SPD 2.07; or

(b) That person and the retained counsel may apply to the state public defender for compensation for such assistance, provided, however, that:

1. The person gives a sworn statement under SPD 3.05; and
2. The need and cost of such assistance is approved under SPD 2.12(2).

**History:** Cr. Register, August, 1978, No. 272, eff. 9-1-78.

**SPD 3.04 Partial payment.** (1) If the person has insufficient assets to retain counsel, the state public defender shall provide counsel under s. 977.08, and may require the person to make payments to the state in partial payment of legal fees, provided, however, that such payments shall not exceed the actual value of the legal services provided as determined by the rate set by the state public defender board. Such payment agreement shall be in writing in conformity to s. 977.07 (7).

(2) If a person is confined to an institution and is not required to pay for the necessities of life, that person shall be required to remit all assets over \$200 in partial payment of legal fees.

(3) The state public defender may reduce the payments for legal fees under this section if it appears, by sworn statement of the person, that the person's financial status has sufficiently changed to warrant reduction in the payments or that the interests of justice require such reduction.

**History:** Cr. Register, August, 1978, No. 272, eff. 9-1-78.

**SPD 3.05 Sworn statement.** (1) All persons provided with publicly compensated counsel shall be required to give a sworn statement of their assets, liabilities, and expenses. Such statement shall be a public document.

Register, August, 1981, No. 308

(2) The state public defender and county designee shall retain all indigency evaluations whether or not a person was determined to be indigent and the county designee shall forward to the state public defender on a biweekly basis copies of all indigency evaluations.

**History:** Cr. Register, August, 1978, No. 272, eff. 9-1-78; cr. (2), Register, August, 1981, No. 308, eff. 9-1-81.

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