

31.185 Facilities available to department -- Ex parte request for funds for representation -- Funding responsibility -- Finance and Administration special account and payment.

- (1) Any defending attorney operating under the provisions of this chapter is entitled to use the same state facilities for the evaluation of evidence as are available to the attorney representing the Commonwealth. If he or she considers their use impractical, the court concerned may authorize the use of private facilities to be paid for on court order from the special account of the Finance and Administration Cabinet.
- (2) The defending attorney may request to be heard ex parte and on the record with regard to using private facilities under subsection (1) of this section. If the defending attorney so requests, the court shall conduct the hearing ex parte and on the record.
- (3) Any direct expense, including the cost of a transcript or bystander's bill of exceptions or other substitute for a transcript that is necessarily incurred in representing a needy person under this chapter, is a charge against the county, urban-county, charter county, or consolidated local government on behalf of which the service is performed and shall be paid from the special account established in subsection (4) of this section and in accordance with procedures provided in subsection (5) of this section. However, such a charge shall not exceed the established rate charged by the Commonwealth and its agencies.
- (4) The consolidated local government, fiscal court of each county, or legislative body of an urban-county government shall annually appropriate twelve and a half cents (\$.125) per capita of the population of the county, as determined by the Council of Local Governments' most recent population statistics, to a special account to be administered by the Finance and Administration Cabinet to pay court orders entered against counties pursuant to subsection (1) or (3) of this section. The funds in this account shall not lapse and shall remain in the special account.
- (5) The Finance and Administration Cabinet shall pay all court orders entered pursuant to subsection (1) or (3) of this section from the special account until the funds in the account are depleted. If in any given year the special account including any funds from prior years is depleted and court orders entered against counties pursuant to subsection (1) or (3) of this section for that year or any prior year remain unpaid, the Finance and Administration Cabinet shall pay those orders from the Treasury in the same manner in which judgments against the Commonwealth and its agencies are paid.
- (6) Expenses incurred in the representation of needy persons confined in a state correctional institution shall be paid from the special account established in subsection (4) of this section and in accordance with the procedures provided in subsection (5) of this section.
- (7) Only court orders entered after July 15, 1994, shall be payable from the special account administered by the Finance and Administration Cabinet or from the Treasury as provided in subsections (4) and (5) of this section.

Effective: July 15, 2002

History: Amended 2002 Ky. Acts ch. 283, sec. 13, effective July 15, 2002; and ch. 346, sec. 8, effective July 15, 2002. -- Amended 1998 Ky. Acts ch. 491, sec. 5, effective July 15, 1998. -- Amended 1994 Ky. Acts ch. 395, sec. 4, effective July 15, 1994. -- Created 1974 Ky. Acts ch. 358, sec. 11.

Legislative Research Commission Note (7/15/2002). This section was amended by 2002 Ky. Acts chs. 283 and 346, which do not appear to be in conflict and have been codified together.