

31.235 Payment for representation upon failure of department to provide attorney -- Decision of public advocate final.

If a court, after finding that the Department of Public Advocacy fails to provide an attorney to a person eligible for representation under KRS Chapter 31, appoints, under the court's inherent authority, an attorney to provide representation to the needy person, the public advocate is hereby authorized to pay reasonable and necessary fees and expenses subject to the following limitations:

- (1) No fee shall be paid in excess of the prevailing maximum fee per attorney paid by the Department of Public Advocacy for the type of representation provided, and no hourly rate shall be paid in excess of the prevailing hourly rate paid by the Department of Public Advocacy for the type of representation provided; and
- (2) Each fee plus expenses incurred in the defense shall be presented by the defense attorney to the Circuit Judge who shall review the fee and expenses request and shall approve, deny, or modify the amount of compensation and fee listed therein. After final approval of the fee and expenses the Circuit Judge shall, if state compensation is desired, certify the amount and transmit the document to the public advocate who shall review the fee and expense request and shall approve, deny, or modify the request. The request as approved or modified shall then be paid. Requests for payment of assigned counsel by the state shall be denied if the district has exceeded the amount of funds which may be allotted to it, if the district plan has not been approved, or if the public advocate finds that compensation is otherwise not warranted. The decision of the public advocate in all matters of fee and expense compensation shall be final.

Effective: July 15, 2002

History: Repealed, reenacted, and renumbered 2002 Ky. Acts ch. 283, sec. 18, effective July 15, 2002. -- Amended 1998 Ky. Acts ch. 491, sec. 2, effective July 15, 1998. -- Amended 1978 Ky. Acts ch. 155, sec. 25, effective June 17, 1978. -- Amended 1976 Ky. Acts ch. 177, sec. 3. -- Created 1972 Ky. Acts ch. 353, sec. 7.

Formerly codified as KRS 31.070.