

31.100 Definitions.

The following terms and standards shall apply, subject to further definition and regulation by the Department of Public Advocacy:

- (1) "Defending attorney" means any attorney who is representing a needy or indigent person;
- (2) "Department" means the Department of Public Advocacy;
- (3) "Detain" means to have in custody or otherwise deprive of freedom of action;
- (4) "Expenses," when used with reference to representation under this chapter, includes the expenses of investigation, other preparation, and trial, together with the expenses of any appeal;
- (5) "Needy person" or "indigent person" means:
 - (a) A person eighteen (18) years of age or older or an emancipated minor under the age of eighteen (18) who, at the time his or her need is determined, is unable to provide for the payment of an attorney and all other necessary expenses of representation;
 - (b) A minor, under the age of eighteen (18), who is a party defendant in an action of being an habitual runaway from his or her parent or person exercising control or supervision of the child brought under KRS 630.020(1) or of being beyond the control of parents brought under KRS 630.020(2), and at the time his or her need is determined is unable to provide for the payment of an attorney and all other necessary expenses of representation;
 - (c) An unemancipated minor, under the age of eighteen (18), who allegedly has committed an offense as described in KRS 610.010(1), or who allegedly is beyond the control of the school as described in KRS 610.010(2)(a), or who allegedly is an habitual truant from school as described in KRS 610.010(2)(b), or who allegedly is an habitual runaway as described in KRS 610.010(2)(c), whose custodial parent or guardian at the time the need of the minor is determined is unable to provide for the payment of an attorney and all other necessary expenses of representation, and who cannot personally so provide; or
 - (d) An unemancipated minor, under the age of eighteen (18), alleged to have committed an offense as described in KRS 610.010(1) or (2)(a), (b), or (c), whose custodial parent or guardian at the time the need of the minor is determined has interests adverse to the child relevant to the charged offenses and who is able to provide for the payment of an attorney and all other necessary expenses of representation, when such representation is not provided or is not consented to by the unemancipated minor;
- (6) "Non-lawyer assistants" shall:
 - (a) Have the same meaning contemplated by SCR 3.130(5.3) "Responsibilities regarding non-lawyer assistants"; and
 - (b) Be subject to the Rules of Professional Conduct and the Rules of Evidence as they relate to client confidentiality, attorney-client communications, and attorney-client privilege.

All non-lawyer assistants hired by the department who are independently

licensed or certified shall practice under the attorney-client privilege, irrespective of other obligations or duties arising with their independent licenses or certifications. Nothing in this subsection shall authorize the disclosure of confidential information to non-lawyer assistants within the department who are not performing duties at the direction of an attorney;

- (7) "Plan" means an agreement between the Department of Public Advocacy and attorneys for the representation of indigent persons who are entitled to representation under this chapter and who, by reason of conflict or otherwise, cannot be represented by the department; and
- (8) "Serious crime" includes:
 - (a) A felony;
 - (b) A misdemeanor or offense any penalty for which includes the possibility of confinement;
 - (c) Any legal action which could result in the detainment of a defendant; and
 - (d) An act that, but for the age of the person involved, would otherwise be a serious crime.

Effective: July 15, 2014

History: Amended 2014 Ky. Acts ch. 87, sec. 1, effective July 15, 2014. -- Amended 2008 Ky. Acts ch. 87, sec. 14, effective July 15, 2008. -- Amended 2002 Ky. Acts ch. 283, sec. 10, effective July 15, 2002. -- Amended 1986 Ky. Acts ch. 104, sec. 1, effective July 15, 1986. -- Amended 1978 Ky. Acts ch. 155, sec. 27, effective June 17, 1978. -- Amended 1976 Ky. Acts ch. 177, sec. 5. -- Amended 1974 Ky. Acts ch. 358, sec. 5. -- Created 1972 Ky. Acts ch. 353, sec. 10.