

**31.211 Determination of ability to pay partial fee for representation and services at arraignment -- Collection of unpaid partial fee by civil judgment -- Partial fee credited to local office or department -- Funds placed in special trust and agency account.**

- (1) At arraignment, the court shall conduct a nonadversarial hearing to determine whether a person who has requested a public defender is able to pay a partial fee for legal representation, the other necessary services and facilities of representation, and court costs. The court shall order payment in an amount determined by the court and may order that the payment be made in a lump sum or by installment payments to recover money for representation provided under this chapter. This partial fee determination shall be made at each stage of the proceedings.
- (2) If the partial fee, or any portion thereof, is not paid by the due date, the court's order is a civil judgment subject to collection under Civil Rule 69.03 and KRS Chapter 426.
- (3) All moneys received by the public advocate from indigent defendants pursuant to subsection (1) of this section shall be credited to the public advocate fund of the county in which the trial is held if the county has a plan pursuant to KRS 31.060 or 31.065(1) which has been approved by the public advocate pursuant to KRS 31.050. Moneys credited to a county public advocate fund may be used only to support the public advocate program of that county.
- (4) All moneys collected by the public advocate from indigent defendants pursuant to subsection (1) of this section in counties with a local public advocacy system established by the public advocate pursuant to KRS 31.065(2) shall be credited to the Department of Public Advocacy special trust and agency account to be used to support the state public advocacy system.
- (5) If a person receives legal assistance or other benefit under this chapter to which he or she is not entitled or if a person receives legal assistance under this chapter and is financially able to pay for representation on the date the suit is brought, the public advocate, on behalf of the Commonwealth, shall recover, where practical, payment or reimbursement, as the case may be, from the person who received the legal assistance or his or her estate. Suit shall be brought within five (5) years after the date on which the aid was received.
- (6) Any attorney participating in a public advocacy plan shall forward all information which he or she may have which indicates that payment or reimbursement may be obtained pursuant to subsection (5) of this section.
- (7) The duty of recovery contemplated by subsection (5) of this section shall extend against persons who were the custodial parents or guardians of unemancipated minors at the time these minors were deemed needy as defined in KRS 31.100(3)(c) or (d).
- (8) All moneys collected under this section shall be placed in a special trust and agency account for the Department of Public Advocacy, and the funds shall not lapse.

**Effective:** July 15, 2002

**History:** Created 2002 Ky. Acts ch. 283, sec. 14, effective July 15, 2002.