

31.125 Determination of indigency of child's custodian -- Payment for defense of child -- Exceptions.

- (1) If court-appointed counsel has been provided to a juvenile in any proceeding, the court appointing the counsel shall:
 - (a) Ascertain who has legal custody of the child; and
 - (b) Ascertain whether the person who has legal custody of the child is indigent and would be entitled to representation pursuant to this chapter if the person having custody of the child were a criminal defendant.
- (2)
 - (a) If it is determined that the child has two (2) living parents or two (2) living guardians, the determination made pursuant to paragraph (b) of subsection (1) of this section shall be made with regard to both parents or both guardians to the extent practical.
 - (b) If it is determined that both parents or both guardians of a child before the court would not qualify for public defense services as an indigent pursuant to this chapter, then both parents or both guardians shall be ordered to pay for the defense of the child if it is practical to bring both parents or guardians before the court.
 - (c) If it is determined that one (1) parent or guardian of a child before the court would not qualify for public defense services as an indigent pursuant to this chapter, then that parent or guardian shall be ordered to pay for the defense of the child if it is possible to bring the parent or guardian before the court.
- (3) Absent a showing of indigency:
 - (a) The fact that a child's parents are divorced may relieve a noncustodial parent of the obligation to pay for defense of the child.
 - (b) The fact that a child is in the custody of a public agency shall relieve a parent from paying for the child's defense.
- (4) The provisions of this section shall not apply if the parent or guardian was the victim of the juvenile's alleged criminal act, or if the parent or guardian is the complainant in the delinquency proceeding.
- (5) Subsections (1) to (3) of this section shall not apply to public representation of a child from the time he would first be entitled to counsel, if an adult, until a determination of indigency is made as provided in this section.

Effective: July 15, 1997

History: Created 1996 Ky. Acts ch. 358, sec. 5, effective July 15, 1997.

Legislative Research Commission Note (7/15/96). Under 1996 Ky. Acts ch. 358, sec. 67(1), this statute becomes effective July 15, 1997.