

HOW TO HAVE A CLIENT/DEFENDANT DECLARED INDIGENT FOR COSTS

A person who is eligible to be represented by a public defender under s. 27.51 but who is represented by private counsel not appointed by the court for a reasonable fee as approved by the court, on a pro bono basis, or who is proceeding pro se, may move the court for a determination that he or she is indigent for costs and eligible for the provision of due process services, as prescribed by ss. 29.006 and 29.007, funded by the State.

Step 1 – Counsel must file the following with the court:

- a. Written motion to have defendant/client declared Indigent for Costs (no ore tenus motions).
- b. Clerk's application for indigent status.
- c. Indigent for Costs Affidavit of Attorney's Fees - must include estimated amount of attorney's fees and the source of those fees

Step 2 - Counsel must serve a copy of the written motion along with the affidavits upon JAC prior to the court declaring the client indigent for costs. JAC is entitled to notice and an opportunity to be heard before a court declares a client indigent for costs. JAC may seek to vacate any order declaring a client indigent for costs if JAC is not afforded an opportunity to participate in the proceeding to declare the client indigent for costs. JAC must receive a minimum of 5 business days' notice of any hearing on a motion to declare a client indigent for costs.

Step 3 - Once the court declares a defendant indigent for costs, privately retained counsel should submit the following documents to JAC as a single packet. Because it will contain an original contract, the packet must be mailed to JAC:

1. The written Motion to Declare the Defendant Indigent for Costs
2. The Clerk's Application for Indigency
3. The Affidavit Attesting to Attorney's Fees
4. The Order Declaring the Defendant Indigent for Costs
5. The Charging Document(s)
6. A signed JAC Agreement for Due Process Services

All of these documents should be submitted as one packet even if they were previously submitted separately. These documents are used to officially open a case in JAC's database once a defendant is declared indigent for costs. An attorney must submit the required case opening documents within 30 days of the date the client is declared indigent for costs.

Step 4 - As directed by ss 29.007 and 27.52(5)(d), an attorney whose client is declared indigent for costs is required to execute the Agreement for Due Process Services for Persons Who Are Indigent for Costs. No invoices will be paid on a case until an Agreement executed by the attorney has been received by JAC. This Agreement is available on this website.

Step 5 - If privately retained counsel intends to seek reimbursement for due process costs paid by counsel or counsel's firm, a properly completed W-9 must be attached to the contract. Attorneys who will be seeking reimbursement for due process costs are required to provide JAC with a current W-9 at all times.

* The Defendant is liable to pay the amount of any due process costs provided by the state and the clerk of court as directed by section 938.29, Florida Statutes. If the Defendant is convicted, the Court is responsible for determining the amount of the obligation to be imposed as a lien against the Defendant. These costs include, but are not limited to, the cost of depositions; cost of transcripts of depositions; investigative costs; witness fees; the cost of psychiatric examinations; or other reasonable costs specially incurred by the state and the clerk of court for the defense of the defendant in criminal prosecutions.