

### **1. Presumption of Indigency**

A defendant is presumed eligible for a credited representative if the defendant is a current recipient of a state or federally administered public assistance program for the indigent. Examples are AFDC, Food Stamps, Medicaid, and Supplemental Security Income (SSI). This presumption shall be rebuttable where the court/ ILSAS, Inc. finds that a more thorough examination of the financial resources of the defendant is necessary.

### **2. Financial Resources**

If the defendant requests Free Representative and is not presumptively eligible under paragraph 1, ILSAS inc. shall examine the financial resources of the defendant with consideration given to net income, assets, and exceptional expenses.

### **3. Net Income**

The defendant's net income shall include total salary and/or wages minus deductions required by law. Also, to be considered are funds and amenities from any other sources including but not limited to:

- o social security payments
- o union funds
- o veteran's benefits
- o workmen's compensation
- o unemployment benefits
- o other regular support from an absent family member
- o public or private employer pensions
- o income from dividends, interest, rents, estates, trusts, or gifts.

### **4. Assets**

ILSAS inc. examines assets convertible into cash within a reasonable period of time without causing substantial hardship or jeopardizing the applicant's ability to maintain home/employment. Assets include all cash on hand as well as in checking and savings accounts, stocks, bonds, certificates of deposit, and tax refunds. All personal property owned by the defendant that is readily convertible into cash shall be considered, except property exempt from attachment. All real estate owned by the defendant shall be considered in terms of the amount that can be raised by a loan on the property.

### **5. Exceptional Expenses**

In making its determination, ILSAS inc. shall consider, in addition to income and assets, any unusual expenses of the defendant and/or his/her family, which would in all probability prohibit him/her from being able to secure private counsel. Such items shall include but not be limited to costs for medical care, family support obligations, and childcare payments.

## 6. Indigency Formula

If the available funds (sum obtained from paragraph 2 A and B minus the expenses included in paragraph 2 C in the financial eligibility determination) are at or below the amounts in the following table and the defendant does not waive his right to counsel or retain counsel on his own behalf, the defendant is deemed eligible for defense services at public/ ILSAS expense (based on availability of funds).

Household Size: includes total number of persons residing in the home that the defendant has financial responsibility for, including the defendant.

Household Size:	1	2	3	4
2023 Average Funds (annually)	\$18,225	24,650	31,075	37,500

Source: Federal Poverty Guidelines plus 25% (Source: Federal Register/Vol. 88, No. 12/  
January 19, 2023, pp. 3424-3425)

(Add \$6,425 for each additional member in households of more than four)

For purposes of eligibility determination, the income, assets, and expenses of the spouse, if any, who is a member of the defendant's household, shall be considered unless the spouse was the victim of the offense(s) allegedly committed by the accused.

## 7. Exceptional Circumstances

If the available funds of the accused exceed recommended guidelines and the defendant fails to employ counsel and does not waive his right to counsel, the Court may, in exceptional circumstances and where the ends of justice so require, appoint an attorney to represent the defendant. In making such appointments, the Court shall state in writing its reasons for so doing. The written statement by the Court shall be included in the permanent record of the case. In district court cases, the written statement should be made in the order portion of form DC-334, Request for Appointment of a Lawyer.