

**Chapter 302: PROCEDURES REGARDING FUNDS FOR EXPERTS AND INVESTIGATORS**

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**Summary:** This Chapter establishes the procedures for attorneys and pro se parties to request funds for experts and investigators from the Commission and provides that the Executive Director shall make the determination to grant or deny the request. It also establishes the procedures for payment of expert and investigator services authorized in this Chapter.

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**SECTION 1. DEFINITIONS**

1. **Executive Director.** "Executive Director" means the Executive Director of the Maine Commission on Public Defense Services or the Executive Director's decision-making designee.
2. **PDS or Commission.** "PDS" or "Commission" means the Maine Commission on Public Defense Services.

**SECTION 2. APPLICATION FOR FUNDS FOR EXPERT AND INVESTIGATIVE ASSISTANCE**

1. **Who May Apply.** Any person who is entitled to representation at state expense under the United States Constitution or the Constitution or laws of Maine and who has been found indigent by a state court or who claims to be without sufficient funds to employ necessary expert or investigative assistance may file, on their own or through their attorney, applications to PDS for funds to obtain expert or investigative assistance or both.
2. **Application Directed to the Executive Director.** An application for funds to obtain necessary expert or investigative assistance or both shall be directed to the Executive Director.
3. **Form and Contents of Application.** The application shall:
  - A. Be completed on a form designated by the Executive Director.
  - B. include the case caption and the docket number;
  - C. Set forth the date on which the applicant was found indigent or, if the applicant has not been found indigent, set forth the basis on which the applicant claims to be without sufficient funds. For persons not found indigent by a court, the application shall be supported by an affidavit demonstrating financial need;
  - D. Describe the nature of the proceeding for which assistance is sought, and in proceedings with respect to adult or juvenile crimes, specifically identify the name and class or statutory cite of the most serious charge, or of the charge which is the basis for the request for funds.

- E. Set forth a clear and concise statement of the reasons why the assistance is necessary for adequate presentation of the applicant's claim or defense; and
  - F. Set forth a clear and concise statement as to the work that will be done by the expert and/or investigator.
4. **Electronic Filing Permitted.** The application must be filed with PDS according to the procedure directed by the Executive Director. Any procedure developed by the Executive Director shall be designed to protect privileged information from disclosure, and to promote the efficient handling of funds requests by Commission staff.
- A. *Repealed.*
  - B. *Repealed.*
  - C. *Repealed.*

### SECTION 3. DETERMINATION BY THE EXECUTIVE DIRECTOR

The Executive Director shall review the application and the grounds therefore and, in the Executive Director's sole discretion, shall either grant the funds applied for, in whole or in part, or deny the application. When granting an application in whole or in part, the Executive Director may condition the expenditure of funds as set forth in PDS Rule Chapter 301, *Fee Schedule and Administrative Procedures for Payment of Commission Assigned Counsel*, and other PDS procedures. The determination of the Executive Director shall be in writing and may be communicated to the applicant by electronic means.

### SECTION 4. PAYMENT FOR EXPERT OR INVESTIGATIVE ASSISTANCE

Upon receipt of an invoice for services for which the expenditure of funds has previously been authorized, the applicant or the applicant's attorney shall forward the invoice to PDS for processing and payment, together with the relevant authorization. Attorneys shall comply with any procedures established by the Executive Director. The applicant or the applicant's attorney must state that the services were satisfactory and that all applicable reports and other information have been received. The applicant or the applicant's attorney should review the invoice to verify that it conforms to PDS requirements and that the appropriate rates for services and mileage were billed. The applicant or the applicant's attorney is not required by the Commission to advance funds to investigators or other service providers, subject to any professional conduct requirements. The applicant should make every effort to ensure that the service providers include a State of Maine Vendor Code number on each invoice.

### SECTION 5. Transition

*Repealed.*

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#### STATUTORY AUTHORITY:

4 M.R.S. §§ 1804(2)(G), (3)(A) and (4)(D)

EFFECTIVE DATE:

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