

**KENTUCKY BAR ASSOCIATION
KENTUCKY RULES OF CRIMINAL PROCEDURE**

INITIAL APPEARANCE AND PRELIMINARY HEARING BEFORE DISTRICT COURT

RCr 3.05 Cautioning of accused; appointment of counsel

(1) At the time of the defendant's appearance the judge shall inform the defendant of the charge against him or her and of his or her right to a preliminary hearing or a trial, and shall advise the defendant of his or her right to have counsel. The defendant shall be informed also that he or she is not required to make a statement and that any statement made by him or her may be used against him or her. The judge shall notify the attorney for the Commonwealth, allow the defendant reasonable time and opportunity to consult counsel, and release the defendant on personal recognizance or admit the defendant to bail if the offense is bailable.

(2) If the crime of which the defendant is charged is punishable by confinement and the defendant is financially unable to employ counsel, the judge shall appoint counsel to represent the defendant unless he or she elects to proceed without counsel. The defendant has the burden of first establishing his or her indigency before counsel may be appointed. If the defendant demonstrates that he or she is a needy person as defined in KRS 31.120 and the court so concludes, then the appointment shall continue for all future stages of the criminal proceeding, including appeal. Such appointment may be terminated by the court in which the proceeding is pending at any time upon a showing that defendant is able to employ counsel.

HISTORY: Amended by Order 98-3, eff. 3-1-99; adopted by Order 81-5, eff. 9-1-81