

## 24.1. Establishing Minimum Attorney Qualifications.

- 24.1.1. **QUALIFICATIONS.** To be qualified an attorney must submit a completed application, resume, recent photograph, and signed attorney acknowledgement form. The attorney must also:
- 24.1.1.1. Have been licensed to practice law for at least one year;
  - 24.1.1.2. Have accumulated a minimum of **10 points** according to the following scale, at least **2 points** of which are from cases tried to verdict as first chair counsel (the attorney shall list the point total in each area with the application):
    - 24.1.1.2.1. **Two points** for each continuous 365-day period in the preceding 3 years as a practicing attorney (up to 3 periods with 5 points maximum);
    - 24.1.1.2.2. **Two points** for each successfully completed intensive criminal law training program in the last 3-year period appearing on the courts' list of approved intensive training programs (see Appendix A) (up to 4 points maximum);
    - 24.1.1.2.3. **One point** for each criminal case tried to a verdict in county or district court as first-chair counsel (list case styles and cause numbers) (up to 5 points maximum; at least 2 points required);
    - 24.1.1.2.4. **One point** for each continuous 120-day period in the preceding 3 years as an intern or legal assistant working under the supervision of a Texas lawyer whose practice was devoted at least 80% to criminal law in county or district courts (up to 3 points maximum);
    - 24.1.1.2.5. **One point** for each Texas State Bar approved CLE lecture given by the attorney, with accompanying written materials, on a criminal law topic (provide written materials and list CLE title, date, and location) (up to 2 points maximum);
    - 24.1.1.2.6. **One point** for each CLE reporting period in the last 3 years in which the attorney attended at least 40 hours of CLE training related to criminal law (provide annual CLE printouts) (up to 2 points maximum);
    - 24.1.1.2.7. **One point** for each law review article authored by the attorney and published by an ABA-accredited law school on a criminal law topic (attach article and citation) (up to 1 point maximum); and
    - 24.1.1.2.8. **One-half point** for each criminal case tried to a verdict in county or district court as second-chair counsel (list case styles and cause numbers) (up to 5 points maximum);
  - 24.1.1.3. Demonstrate substantive knowledge of criminal law, criminal procedure, and evidentiary rules applicable to misdemeanor cases by scoring at least 75% on an open-book test written by judicial staff and members of the Public Defender's Office of Harris County, Texas;
  - 24.1.1.4. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
  - 24.1.1.5. Have attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);

- 24.1.1.6. Agree to attend at least 10 hours of CLE related to criminal law annually, including one hour of ethics, and annually submit an affidavit showing compliance with this CLE requirement;
- 24.1.1.7. Agree to attend CLE programs as directed by the Presiding Judge of these courts;
- 24.1.1.8. Agree to submit an affidavit showing compliance with the annual CLE requirements;
- 24.1.1.9. Provide (and keep current) an email address to which the Office of County Court Management may send official notices and correspondence regarding the Plan, including, but not limited to, matters concerning CLE, changes to the Plan and eligibility requirements, notice of removal from the approved list, and other administrative matters;
- 24.1.1.10. Consistently demonstrate commitment to providing effective assistance of counsel and quality representation to criminal defendants;
- 24.1.1.11. Maintain a demeanor which is professional and conducive to effective representation;
- 24.1.1.12. Demonstrate effectiveness of advocacy skills including, but not limited to, such items as: voir dire; direct and cross examination; introduction of, objection to, and admissibility of evidence; argument; instructions; and recognition of appellate issues;
- 24.1.1.13. Communicate effectively with the other parties involved in his cases. The attorney must make thorough use of sentencing laws, seeking imaginative and creative sentencing alternatives;
- 24.1.1.14. Appear in court punctually and keep the court apprised of his whereabouts;
- 24.1.1.15. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his indigent clients;
- 24.1.1.16. Be of sound mind;
- 24.1.1.17. Agree to report to the Texas Indigent Defense Commission, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Harris County for adult criminal and juvenile delinquency cases for the prior year (term beginning on October 1st and ending September 30th); and
- 24.1.2. **CONTINUING DUTIES; EXCEPTIONS.** A qualified attorney that has not been removed from the list of qualified attorneys must fulfill the obligations, expectations, and agreements listed in Rule 24.5.1, except that the attorney need not annually:
  - 24.1.2.1. Resubmit an application, resume, and photograph; or
  - 24.1.2.2. Retake the competency exam (see Rule 24.5.1.4).
- 24.1.3. **OBLIGATION TO REPORT CERTAIN OCCURRENCES.** A qualified attorney shall notify the presiding judge of these courts not later than 48 hours after any of the following events:
  - 24.1.3.1. The attorney's arrest for any state or federal offense punishable by confinement;
  - 24.1.3.2. The attorney's placement on community supervision, diversion, or intervention;

- 24.1.3.3. Any judicial finding that the attorney provided ineffective assistance of counsel;
  - 24.1.3.4. Disciplinary action by the State Bar of Texas against the attorney, including but not limited to any active or probated suspension; or
  - 24.1.3.5. The attorney enters a plea of guilty or no contest to, or is found guilty of, an offense punishable by confinement.
- 24.1.4. SPECIALTY COURT PROGRAMS, PUBLIC DEFENDER, DEFENSE SPECIALISTS.<sup>1</sup> These categories provide opportunities for lawyers to diversify their practices, to control the size of their caseloads, to choose the types of cases they handle, and to have access to adequate resources to properly defend their clients.
- 24.1.4.1. SPECIAL MENTAL HEALTH CASELOAD. An assistant Harris County Public Defender with significant previous experience and specialized training in representing mentally ill and intellectually disabled persons charged with a criminal offense, shall represent a defendant:
    - 24.1.4.1.1. Identified by an algorithm composed of data approved by the judges covered by this Plan in consultation with the chief public defender, indicating a likelihood that mental illness and/or intellectual disability is/are a factor in the defendant’s arrest;
    - 24.1.4.1.2. Arrested at least three times during the twelve months prior to the current arrest, with a medical and social history suggesting that court ordered step-down therapy may reduce the probability of future arrests; or,
    - 24.1.4.1.3. Following a finding by a court that the defendant is incompetent.
  - 24.1.4.2. MENTAL HEALTH DEFENSE SPECIALIST. Represents a defendant identified using the mental health algorithm; a defendant found incompetent; or a defendant manifesting signs of mental illness when the Public Defender’s Office reaches its daily or annual case load cap. The attorney must:
    - 24.1.4.2.1. Meet the general qualifications; and
    - 24.1.4.2.2. Meet at least one of the following three requirements:
      - 24.1.4.2.3. Has previous experience representing mentally ill offenders in Texas;
      - 24.1.4.2.4. Possesses an undergraduate or graduate degree in social work or a related field; and/or
      - 24.1.4.2.5. Attended the four hour Mental Health Defense Specialist seminar sponsored by the Harris County Public Defender’s Office.
  - 24.1.4.3. APPEALS AND HABEAS CORPUS. The Harris County Public Defender shall represent all persons appealing a judgment or order of these courts. If, because of a conflict, the public defender is unable to represent a defendant on appeal, a judge shall request the names of qualified appellate attorneys from which he or she shall select a name.
    - 24.1.4.3.1. This category provides counsel in cases where the Public Defender’s Office has a conflict. The attorney must:
      - 24.1.4.3.1.1. Meet the general qualifications; and

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<sup>1</sup> “Specialist,” as used in these Rules, does not refer to any certification through the Texas Board of Legal Specialization.

- 24.1.4.3.1.2. Have been attorney of record in at least five direct appeals and the appeal of adverse rulings in at least two writs of habeas corpus.
- 24.1.4.4. BILINGUAL ATTORNEY. Represents a defendant who does not speak or understand the English language. The attorney must:
  - 24.1.4.4.1. Meet the general qualifications; and
  - 24.1.4.4.2. Demonstrate a Level III proficiency in a foreign language administered by a nationally recognized entity or organization that teaches individuals to read, write, and speak foreign languages through on-site instruction in Harris, County, Texas.
- 24.1.4.5. FUGITIVE DEFENSE SPECIALIST. Represents a person who has been arrested in Harris County, Texas on a warrant from another state or another county in Texas. The attorney must:
  - 24.1.4.5.1. Meet the general qualifications; and
  - 24.1.4.5.2. Have previous experience representing fugitives, The State of Texas, or both, in hearings or writ applications before a judge or magistrate involving defendants held under authority of out-of-state or out-of-county warrants.
- 24.1.4.6. S.O.B.E.R COURT PROGRAM ATTORNEY. Represents a defendant in the S.O.B.E.R Court Specialty program for persons convicted of driving while intoxicated. The attorney must:
  - 24.1.4.6.1. Meet the general qualifications;
  - 24.1.4.6.2. Observe one staffing and review in each S.O.B.E.R. Court;
  - 24.1.4.6.3. Read selected articles on specialty courts, and the role of defense counsel in specialty courts;
  - 24.1.4.6.4. Work under the direction of a S.O.B.E.R. Court mentor attorney, representing program participants for 60 days;
  - 24.1.4.6.5. Agree to attend grant sponsored specialty court training; and
  - 24.1.4.6.6. Agree to an hourly fee for professional services, and which does not include training (except for representation of a client under a mentor); graduations, or other activities.
- 24.1.4.7. VETERAN'S COURT PROGRAM ATTORNEY. Represents a Veteran or current member of the United States armed forces, including a member of the Reserves, National Guard or State Guard, who has been accepted into Veterans Court Program. The attorney must:
  - 24.1.4.7.1. Meet the general qualifications;
  - 24.1.4.7.2. Read selected articles on specialty courts, and the role of defense counsel in specialty courts;
  - 24.1.4.7.3. Observe three dockets (staffing and review);
  - 24.1.4.7.4. Agree to attend grant-sponsored team training; and
  - 24.1.4.7.5. Agree to an hourly fee for professional services, and which does not include training (except for representation of a client under a mentor); graduations, or other activities.

- 24.1.4.8. S.A.F.E. COURT PROGRAM ATTORNEY. Represents a defendant who is charged with prostitution, from the age of 17 years of age through the age of 25 years of age who has been accepted into the S.A.F.E. Court program. The attorney must:
  - 24.1.4.8.1. Meet the general qualifications;
  - 24.1.4.8.2. Read selected articles on specialty courts, and the role of defense counsel in specialty courts;
  - 24.1.4.8.3. Observe three dockets (staffing and review);
  - 24.1.4.8.4. Agree to attend grant sponsored team training; and
  - 24.1.4.8.5. Agree to an hourly fee for professional services, and which does not include training (except for representation of a client under a mentor); graduations, or other activities.
- 24.1.5. DEAF OR HEARING IMPAIRED. Represents a defendant who is deaf, or severely hearing impaired. The attorney must:
  - 24.1.5.1. Meet the general qualifications;
  - 24.1.5.2. Have a working knowledge of American Sign Language or other universally accepted sign language; and
  - 24.1.5.3. Possess the willingness to work through a state-licensed interpreter for the deaf and hearing impaired.
- 24.2. APPROVAL OF QUALIFIED ATTORNEYS.** Approval decisions are based on an assessment of the need of the Courts to add attorneys in various categories based on an analysis of current caseloads and projections for the future.
  - 24.2.1. The judges will review qualified applications at their May meeting, or as the needs of the courts require.
  - 24.2.2. MAJORITY VOTE FOR APPROVAL. A majority vote (nine votes) of the judges presiding over the County Criminal Courts at Law is necessary to approve an attorney's placement on the list of Attorneys Eligible for Appointment.
  - 24.2.3. ADMINISTRATIVE MEETING. Prior to the first appointment period, each approved attorney shall attend a two hour meeting with the Courts' staff attorney to review the F.D.A.M.S. and V.i.P.S. electronic assignment and payment procedures.
  - 24.2.4. ANNUAL DUTY TO REPORT CLE COMPLIANCE. The annual reporting period begins on November 1st and ends October 31st of the following year.
  - 24.2.5. FORM OF REPORT. CLE hours shall be reported by submitting the State Bar of Texas Minimum Continuing Legal Education annual Verification Report or reports attached to an affidavit attesting to the truth and accuracy of the report(s).
  - 24.2.6. COMPLIANCE. Each attorney is responsible for timely filing the attorney's CLE report and affidavit with the Office of County Court Management, 1201 Franklin Street, 7th Floor, Houston, Texas 77002.