

QUALIFICATIONS OF APPOINTED COUNSEL FOR INDIGENT DEFENDANTS FORT BEND COUNTY DISTRICT COURTS

ADDENDUM A

I.

All Matters Where the Death Penalty is Sought:

Death Penalty cases will be assigned from the 11th Administrative Region list.

II.

Generally as to all other Felonies:

1. Counsel must have a location in Fort Bend County where they can meet privately with appointed clients.
2. Counsel must be proficient in the use of Fort Bend County's e-Discovery portal and counsel must be able to e-File documents with the Fort Bend County District Clerk.
3. **Counsel must appear for ALL court settings on appointed cases.** If there is a scheduling conflict with a court setting, counsel must contact the Court prior to the setting.
4. Failure to appear without timely notice can result in removal from that case and removal from the appointment list. If another counsel will appear for appointed counsel, that appearance must be noted on the fee voucher. If another counsel appears for appointed counsel and performs any substantive legal work, they must be qualified to handle that level of offense.
5. Counsel must have a secretary, or a receptionist, answering service, or a cell phone with texting capabilities. Counsel must have an active e-mail account to receive court appointments and notices regarding procedural changes. Counsel must respond promptly to communications from the Court.

6. Counsel must register a phone number consistent with the requirement above with the Fort Bend County Sheriff to prevent any attorney-client phone calls with incarcerated clients from being recorded.
7. If the level of offense changes when a case is indicted and appointed counsel is not qualified for that level of offense, counsel shall contact the indigent defense department so that an attorney from the appropriate list can be substituted.
8. Proof of required experience can be shown through court documents. If those documents are unavailable due to an expunction or non-disclosure order, then affidavits are acceptable. Other significant experience in contested matters may be submitted for consideration.
9. Proof of qualification for a higher-level offense constitutes qualification for a lower level offense.
10. Counsel may be suspended or removed from the appointment list if they are found to be ineffective by a court; no longer meet the required qualifications under this plan; have not satisfactorily upheld their responsibilities under this plan; or for other good cause shown. The Courts may temporarily suspend counsel from receiving appointments until a final determination on the suspension can be made that includes an opportunity for counsel to respond. The procedure for removing counsel is outlined in the County's Tenth Amended District and County Courts Plan.
11. Counsel can request the Court for the appointment of a second chair. Upon the Court's approval, the second chair will be appointed, and Indigent Defense will be notified. Lead counsel will be responsible for the work of the second chair. The second chair will be paid at a lower rate than the lead counsel.

III.
Specific Requirements for Felony Appointments

All 3g Offenses:

Five (5) years licensed to practice law and

- a. One (1) jury verdict as lead counsel in this level offense; or
- b. Five (5) jury verdicts (with 3 verdicts as lead counsel) of any 1st degree felony offense

IV.

**1st Degree Felonies (Other than above- listed Felony Offenses)
and offenses enhanced to a 1st Degree Penalty Range:**

Four (4) years licensed to practice law and

- a. One (1) jury verdict as lead counsel on a 1st degree felony indictment; or
- b. Five (5) jury verdicts (3 verdicts as lead counsel) of any degree felony offenses

V.

2nd and 3rd Degree Felonies Not Described Above:

Two (2) years licensed to practice law and

- a. One (1) jury verdict as lead counsel, on any felony indictment; or
- b. Two (2) jury verdicts as co-counsel, on any felony indictments; or
- c. Five (5) jury verdicts as lead counsel, on any misdemeanor offenses

VI.

**State Jail Felonies, Motion to Revoke Probation or Motion to Adjudicate Guilt on
Misdemeanors:**

Two (2) years licensed to practice law and

- a. One (1) jury verdict as lead counsel, on any felony indictment; or
- b. Two (2) jury verdicts as co-counsel, on any felony indictments; or
- c. Five (5) jury verdicts as lead counsel, on any misdemeanor offenses

VII.

Appeals – Non-Death Penalty

Three (3) years licensed to practice law and authored or co-authored three (3) appellate briefs.

VIII.

Continuing Legal Education - All Felony and Misdemeanor Non-Appellate Appointments:

In addition to the appropriate categories listed above:

- a. Completion within the past three (3) calendar years of thirty (30) hours of CLE in Criminal Law, including courses on examination of expert witnesses and presentation of scientific evidence; and
- b. Annually, after being approved on the Indigent Appointment List, completion of fifteen (15) hours of CLE in Criminal Law, including courses on examination of expert witnesses and presentation of scientific evidence

IX.

Appeals: All other Felony Convictions All Misdemeanor Convictions:

In addition to the appropriate categories listed above:

- a. Completion within the past three (3) calendar years of thirty (30) hours of CLE in Criminal Law, including courses on appellate issues; and
- b. Annually, after being approved on the Indigent Appointment List, completion of fifteen (15) hours of CLE in Criminal Law, including courses on appellate issues

QUALIFICATIONS OF APPOINTED COUNSEL FOR INDIGENT DEFENDANTS FORT BEND COUNTY COURTS AT LAW

ADDENDUM B

I.

ATTORNEY OF THE DAY APPOINTMENTS

(A). Attorney of the Day. The County Courts at Law may retain the services of an attorney, meeting the minimum requirements for Class A and B Misdemeanor Appointments under Section III(A) below, to assist with administrative functions during the dockets of the assigning Court.

II.

GENERAL REQUIREMENTS FOR ALL MISDEMEANOR APPOINTMENTS

(A). E-Discovery & E-File. Counsel must be proficient in the use of Fort Bend County's e-Discovery portal and counsel must be able to e-File documents with the Fort Bend County Clerk in all misdemeanor cases.

(B). Appearance of Counsel. Counsel must appear for ALL court settings on appointed cases. If there is a scheduling conflict with a court setting, counsel must contact the Court prior to the setting. Failure to appear without timely notice, in accordance with the plan and individual Court requirements, can result in removal from that case and/or removal from the appointment list. If another counsel will appear for appointed counsel, regardless if the counsel appearing is of the same firm as appointed counsel, that appearance must be noted on the fee voucher. If another counsel appears for appointed counsel and performs any substantive legal work, they must be qualified and approved under Section III(A) below.

(C). Second Chair Program. Counsel can request the Court for the appointment of a second chair. Upon the Court's approval, the second chair will be appointed, and Indigent Defense will be notified. Lead counsel will be responsible for delegation of work to the second chair. The second chair will be paid at a lower rate than lead counsel, as determined by the Court. The second chair must be a licensed attorney by the State Bar of Texas practicing criminal law less than 10 years and meet the requirements listed under

Section III(A) below.

III.

SPECIFIC REQUIREMENTS FOR MISDEMEANOR APPOINTMENTS

(A). To Qualify for Appointment to Class A or B Misdemeanors, Counsel shall meet the following requirements:

- (1) A licensed attorney by the State Bar of Texas;
- (2) First chaired one (1) jury trial to verdict or second chaired two (2) jury trials to verdict;
- (3) Lead Counsel for three (3) evidentiary hearings may be substituted for requirement (b) above.
- (4) Attended fifteen (15) hours of criminal law CLE within the previous calendar year;
- (5) Met all other standards within the Tenth Amended Fort Bend County Adult Plan and Local Rules for the Appointment of Counsel to Indigent Defendants in the District and County Courts of Fort Bend County, Texas, Pursuant to Art. 26.04, ET Seq., Texas Rules of Criminal Procedure.

(B). To Qualify for Appointment to Class A or B Misdemeanors and the Defendant has a Suspected or Known Mental Health Condition, Counsel shall meet the following requirements:

- (1) Meet the requirements under Section III. (A). above.
- (2) Attended the six (6) hour Fort Bend County Criminal Justice Mental Health Seminar each year or watch the previous year's video located in the law library, or obtain ten (10) hours of mental health CLE within the previous calendar year.