



# Second Administrative Judicial Region of Texas

## APPLICATION FOR APPROVAL AS QUALIFIED 1st CHAIR TRIAL COUNSEL IN DEATH PENALTY CASES

This application is only for those applicants opting to be on the list for qualified **1<sup>st</sup> Chair trial counsel** for appointment in death penalty cases in the Second Administrative Judicial Region of Texas. Each applicant will need to apply in the counties of choice to be placed on their list.

I, \_\_\_\_\_, Texas Bar License Number \_\_\_\_\_, a resident of \_\_\_\_\_ County with offices in \_\_\_\_\_ County(ies), do request approval by the Presiding Judge of the Second Administrative Judicial Region of Texas or his/her designee of this judicial region to be qualified for appointment in death penalty cases as:<sup>i</sup> **First Chair Trial Counsel**

I certify that I meet all of the following requirements as required by Tex. Code Crim. Proc. Art. 26.052 for such appointments in the following respects:

### (A through H required of all applicants)

- (A) Member of the State Bar of Texas;
- (B) Have exhibited proficiency and commitment to providing quality representation to defendants in death penalty cases;
- (C) Have not been found by a federal or state court to have rendered ineffective assistance of counsel during the trial or appeal of any capital case, unless the local selection committee determines under Subsection (n) that the conduct underlying the finding no longer accurately reflects my ability to provide effective representation;
- (D) Have at least five years of criminal law experience;
- (E) Have tried to a verdict as lead defense counsel a significant number of felony cases, including homicide trials and other trials for offenses punishable as first or second degree felonies or capital felonies;
- (F) Have trial experience in:
  - (i) the use of and challenges to mental health or forensic expert witnesses; and
  - (ii) investigating and presenting mitigating evidence at the penalty phase of a death penalty trial; and
- (G) Have participated in continuing legal education courses or other training relating to criminal defense in death penalty cases approved by the Presiding Judge for MCLE for at least twenty hours (of which no more than five hours may be self-study) within the previous two years<sup>ii</sup> **[Attach proof of CLE, specifying which portions of the CLE course(s) relate to criminal defense in death penalty cases and the number of CLE hours for those portions of the CLE course(s) and include description of any self-study course]**
- (H) If I am actively involved in a death penalty case when my appointment expires, I agree to maintain the standards necessary and reapply to remain on the list of qualified counsel in order to complete the case.

<sup>i</sup> Additional Counsel: In order to promote quality representation and to expand and maintain a pool of qualified attorneys, nothing in this plan shall be construed to preclude the appointment of additional compensated or *pro bono* counsel who shall, under the supervision of first and second chair, serve as trial counsel in any death penalty case. Attorneys applying to a court to serve in such a capacity are exempt from complying with the qualification requirement of this plan.

<sup>ii</sup> Determination of whether an attorney has satisfied the CLE requirements of the Local Selection Committee shall include whether the attorney has, in the past year from the date of application to be Qualified Counsel, satisfied the minimum CLE requirements promulgated by the State Bar of Texas, including three hours of Legal Ethics. See Texas Code of Criminal Procedure Art. 26.052(d)(5) and State Bar Rules Article XII, Section 6(B).

Required for First Chair (In addition to items A through H above, I meet or exceed *three or more* of the following criteria as indicated below.)

**(List and check all that apply)**

Within the previous ten years,

- I have been counsel in one or more death penalty cases as first or second chair;
- I have been counsel in two or more cases of post-conviction writ of habeas corpus in death penalty cases;
- I have been appellate counsel in one or more cases on direct appeal of death penalty case;
- I have been counsel in ten or more felony cases tried to a jury verdict as first chair;
- I have been appellate counsel in five or more felony direct appeals as lead counsel;
- I have attained Board Certification in Criminal Law by Texas Board of Legal Specialization; or
- I have ten years experience during which 25 % or more of practice is devoted to practice of criminal law.

**Peer Review**

I submit the following 3 to 5 lawyers and/or judges, not partners or associates of mine, who may be contacted and who can attest to my competence in criminal law.

1. \_\_\_\_\_ (\_\_\_\_\_) \_\_\_\_\_  
Name Office Telephone

\_\_\_\_\_  
Address City/State/Zip

2. \_\_\_\_\_ (\_\_\_\_\_) \_\_\_\_\_  
Name Office Telephone

\_\_\_\_\_  
Address City/State/Zip

3. \_\_\_\_\_ (\_\_\_\_\_) \_\_\_\_\_  
Name Office Telephone

\_\_\_\_\_  
Address City/State/Zip

4. \_\_\_\_\_ (\_\_\_\_\_) \_\_\_\_\_  
Name Office Telephone

\_\_\_\_\_  
Address City/State/Zip

5. \_\_\_\_\_ (\_\_\_\_\_) \_\_\_\_\_  
Name Office Telephone

\_\_\_\_\_  
Address City/State/Zip

I, certify that the above representations are true and correct and I make these representations in order to gain approval by the Presiding Judge of the Second Administrative Judicial Region of Texas to be qualified for appointment as **1<sup>st</sup> Chair trial counsel** in death penalty cases.<sup>iii</sup>

\_\_\_\_\_  
*Applicant Signature*

\_\_\_\_\_  
*Date*

**Note: This appointment will expire on July 1, 2018  
(Each applicant will be required to re-apply annually on or before July 1<sup>st</sup>)**

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***APPROVAL BY THE PRESIDING JUDGE  
OF THE SECOND ADMINISTRATIVE JUDICIAL REGION OF TEXAS***

Having reviewed the application of \_\_\_\_\_, attorney at law, Texas Bar License Number \_\_\_\_\_, is hereby approved for appointment in this judicial region as **1<sup>st</sup> Chair trial counsel** in death penalty cases, as indicated below, and the District Clerk of each county is hereby ordered to add the name of said counsel to the list of approved counsel for appointment as **1<sup>st</sup> Chair trial counsel** in death penalty cases pursuant to Article 26.052 of the Texas Code of Criminal Procedure:

\_\_\_\_\_  
*Honorable Olen Underwood, Presiding Judge  
Second Administrative Judicial Region of Texas*

\_\_\_\_\_  
*Date*

<sup>iii</sup> To be approved as qualified trial counsel in death penalty cases, applicant also must obtain approval from the Local Administrative Judge of the counties in which applicant seeks appointment. Attach to this application a list of all the counties in which applicant seeks approval for appointment.