

TO BE RESCINDED

120-1-10

Qualifications for assigned/appointed counsel and public defenders in cases in where reimbursement for defense costs is sought by a county from the Ohio public defender.

(A) A county shall not receive reimbursement for defense costs from the state public defender unless the assigned/appointed counsel and/or public defender representing the indigent applicant meets the following minimum qualifications:

- (1) Where the defendant is charged with aggravated murder with death penalty specifications, or has been convicted and sentenced to death, any attorney appointed for trial or appellate representation must meet the qualifications set forth in rule 20 of the Ohio supreme court "Rules of Superintendence" and appear on the list of attorneys qualified to accept appointments in capital cases promulgated by the rule 20 committee or have a waiver issued by the rule 20 committee.
- (2) Where the defendant is charged with murder or aggravated murder without specifications, appointed counsel shall possess:
 - (a) Prior experience as trial counsel or co-counsel in one prior murder trial; or
 - (b) Prior experience as trial counsel in two first degree felony or aggravated felony trials; or
 - (c) Prior experience as trial counsel in ten or more jury trials.
- (3) Where the defendant is charged with a felony of the first, second, or third degree, appointed counsel shall possess:
 - (a) Prior experience as trial counsel in two or more first, second, or third degree felony trials, at least one of which was a jury trial; or
 - (b) Prior experience as trial counsel in any four jury trials at least one of which was a jury trial in a first, second, or third degree felony; or
 - (c) Prior experience as trial counsel in any two criminal trials; and
 - (i) Co-counsel in at least one criminal jury trial;
 - (ii) Trial counsel or co-counsel in two jury trials.

- (4) Where the defendant is charged with a fourth- degree or fifth degree felony, appointed counsel shall possess:
 - (a) Prior experience as trial counsel or co-counsel in at least one jury trial; or
 - (b) Prior completion of a training program on criminal practice or procedure which is certified for continuing legal education credit by the Ohio supreme court commission on continuing legal education.
- (B) Assignment should be distributed as widely as possible among members of the bar who meet the qualifications for assignment.
- (C) If appointed counsel fails to follow the stated qualifications, the Ohio public defender commission may refuse to approve reimbursement for the appointment of particular counsel pursuant to division (B) of section 120.18, division (B) of section 120.28 and sections 120.33 and 2941.51 of the Revised Code. Prior to the appointment or at the time of appointment, the court may submit the appropriate qualification information pertaining to counsel to the Ohio public defender for determination of whether counsel qualifies for reimbursement pursuant to division (B) of section 120.18, division (B) of section 120.28, and sections 120.33 and 2941.51 of the Revised Code.
- (D) The respective courts and county and joint county public defender commissions shall be free to adopt local rules requiring qualifications in addition to the minimum standards established by this rule.

Effective:

R.C. 119.032 review dates: 07/21/2009

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 120.03(B), 120.04(B)
Rule Amplifies: 120.03(B), 120.18(B), 120.28(B), 120.33(A)(4)
Prior Effective Dates: 9/10/79, 11/6/84, 9/27/91, 1/1/00