



**STANDARDS FOR CERTIFICATION
OF LAWYERS SPECIALIZING IN
CRIMINAL LAW**

Approved 1/8/2020

Pursuant to the authority vested in the Arizona Board of Legal Specialization (“BLS”) by the Board of Governors of the State Bar of Arizona, the BLS prescribes the following standards and requirements for certification of lawyers specializing in criminal law in accordance with the Rules and Regulations of the Arizona Board of Legal Specialization established by the Board of Governors.

No provision herein contained shall in any way limit the right of a lawyer certified as specializing in criminal law to practice law in all fields or to act as counsel in every type of legal matter. Any lawyer, alone or in association with any other lawyer, shall have the right to practice in all fields of law, even though the lawyer is certified as specializing in criminal law.

No lawyer shall be required to be certified as specializing in criminal law before that lawyer can practice law in the field of criminal law or act as counsel in any particular type of criminal law matter. Any lawyer, alone or in association with another lawyer, shall have the right to practice in the field of criminal law and to act as counsel in every type of criminal law case, even if the lawyer is not certified as specializing in criminal law.

The Board of Legal Specialization is committed to promoting racial, ethnic, and gender diversity, and to assuring the rights of the disabled within all Board of Legal Specialization programs, committees, and activities, and will periodically monitor all existing programs, committees, and activities for compliance with the goal of diversity and with assurance of the rights of the disabled in every aspect of the Board of Legal Specialization.

I. GENERAL REQUIREMENTS

- A. Active Member of the State Bar.** An applicant for certification as a lawyer specializing in criminal law shall be an active member in good standing of the State Bar of Arizona.
- B. Application.** An applicant shall be required to complete an application in a form prescribed by the BLS to furnish such additional and supplemental information as may be required by the BLS or the Criminal Law Advisory Commission, and to comply with all applicable Rules and Regulations of the Arizona Board of Legal Specialization.
- C. Recommendation by Criminal Law Advisory Commission.** An applicant shall be recommended to the BLS for certification as a lawyer specializing in criminal law when the applicant is found to have complied with the applicable standards by no less than five (5) of the ten members of the Criminal Law Advisory Commission.
- D. Expiration of Certification.** A certificate of specialization shall expire five (5) years after the date thereon; provided, however, that if timely application for renewal of certification is made as provided under the Rules and Regulations of the Board of Legal Specialization, the certificate shall remain in effect until the BLS has acted upon the renewal application. Renewal of certification shall be required every five (5) years.

- E. Revocation/Suspension of Certification.** The BLS may revoke or suspend the certification of a lawyer recognized as specializing in criminal law for any reason specified in the Rules and Regulations of the Arizona Board of Legal Specialization, including but not limited to advice from the Criminal Law Advisory Commission that the certified lawyer no longer meets the criteria for substantial involvement in the field of criminal law as set forth in Section II hereof.
- F. Fees.** Every applicant shall pay application and testing fees as may be prescribed by the BLS.

II. STANDARDS FOR CERTIFICATION

- A. Required Period of Law Practice.** An applicant shall have been admitted to the practice of law for a minimum of seven (7) years, of which at least two (2) years immediately preceding the application must have been in the practice of law within the State of Arizona, and after admission to practice shall have engaged in legal service (as defined in Section I of the Rules and Regulations of the Board of Legal Specialization) on an annual basis equivalent to at least 50% or more of a full-time practice.
- B. Substantial Involvement in Criminal Law.** An applicant shall make a satisfactory showing, as determined by the Board in accordance with objective and verifiable standards, based upon advice of the Criminal Law Advisory Commission, of substantial involvement in the field of Criminal Law. In so doing, the applicant shall demonstrate that the applicant has, since admission to practice, attained a basic level of experience, as set forth below, and is currently substantially involved in the field of criminal law. As used herein, the term *serious felony offense* means a single offense which, upon conviction, carries a mandatory imposable sentence of five (5) years or more imprisonment. Multiple lesser charges tried simultaneously may not be aggregated to meet this requirement. The term *principal counsel of record* means a lawyer who presents the case or proceeding to the jury and/or the court throughout its course, or during a substantial part thereof
1. **Basic Experience Requirements.** Since admission to the practice of law, applicant shall have been principal counsel of record in the following:
 - a. Ten (10) criminal felony jury trials, in at least five (5) of which a serious felony offense was tried.
 - b. Fifteen (15) evidentiary or other hearings *which involved substantial contested issues of law or fact*. Non - exclusive examples of types of hearings which may qualify, if substantial contested issues are involved, include:
 - (1) Motion to Suppress;
 - (2) Motion in Limine;
 - (3) Federal Sentencing involving difficult Guideline Sentencing issues;
 - (4) State Sentencing (non—routine);
 - (5) Admissibility of scientific evidence under Frye/Daubert;
 - (6) Admissibility of eyewitness identification under Dessureault;
 - (7) Admissibility of “prior bad acts” evidence under Rule 404(b) of Criminal Procedure (federal or state).

c. Any combination of at least five (5) of the following:

- (1) Petition or answer filed in special action proceedings in the Arizona Court of Appeals or the Arizona Supreme Court;
- (2) Appeal in the following courts in which briefs were filed by appellants and respondents: United States Supreme Court, United States Court of Appeals, Arizona Supreme Court or Arizona Court of Appeals;
- (3) Petition for post-conviction relief;
- (4) Petition for habeas corpus relief under Section 2254 of Title 28, United States Code;
- (5) Motion to vacate or set aside sentence under Section 2255 of Title 28, United States Code.

2. Substantial Current Involvement. During the five (5) years immediately preceding application, applicant shall have devoted, on an annual basis, time equivalent to at least 50% or more of a fulltime practice to matters in which issues of criminal law are significant factors. During that period, applicant shall have served as principal counsel of record in at least 125 additional criminal matters.

An applicant shall furnish the Board with information regarding the nature of the legal services in which he has been engaged and identifying the types of issues of criminal law with which applicant has dealt. This information shall be provided on forms provided by the Board but should be supplemented with additional sheets attached where necessary. Applicants should describe with particularity matters handled which involved exceptional complexity, or in which an exceptional result was obtained. Applicants may be required by the Board or by the Criminal Law Advisory Commission to supplement the information supplied orally or in writing.

C. Competence and Integrity. An applicant must demonstrate honesty, integrity, professionalism as defined by the Lawyer's Creed of Professionalism of the State Bar of Arizona, and a high degree of competence in the practice of criminal law. The required degree of competence is substantially higher than that possessed by a general practitioner in criminal law. For purposes hereof, a high degree of competence shall meet the following standards:

1. That the applicant demonstrate a substantially complete knowledge of substantive law and rules of practice, procedure, evidence and ethics pertaining to criminal law;
2. That the applicant demonstrate a high degree of skill, thoroughness, preparation, effectiveness, professionalism and judgment in the field of criminal law;
3. That the applicant pass a written examination in the topics specified in paragraphs (1) and (2) above. This examination shall be given at least once each calendar year at a date, time and location determined by the Criminal Law Advisory Commission. The test and its grading criteria shall be formulated at the direction of the Advisory Commission and approved by the Board of Legal Specialization.

4. That the application demonstrate a substantially complete knowledge of and a high degree of skill in the use of alternative dispute resolution as it applies in the field.
5. Legal competence is measured by the extent to which an attorney (1) is specifically knowledgeable about the fields of law in which the applicant practices, (2) performs the techniques of such practice with skill, (3) manages such practice efficiently, (4) identifies issues beyond his or her competence relevant to the matter undertaken, bringing these to the client's attention, and (5) properly prepares and carries through the matter undertaken.
6. Disciplinary History:
Imposition of a discipline sanction under Rule 60, Ariz. R. Sup. Ct. within the five-year period preceding the date of application may be grounds for denying, suspending, or revoking certification.

The following shall not be considered in approving or denying an application for certification:

- a. Diversion,
- b. Dismissals, or
- c. Allegations of misconduct that did not result in a disciplinary charge.

D. References. With each application, the applicant will submit the names of at least five Arizona attorneys who practice in criminal law and/or judges before whom the applicant has appeared, familiar with the applicant's practice, and not including current partners or associates. The Criminal Law Advisory Commission will select at least five Arizona lawyers, judges, or qualified professionals as references from cases/matters/projects submitted by the applicant to demonstrate substantial involvement. The references will be requested to provide written comments concerning the applicant not only on such specific topics as knowledge, skill, thoroughness, preparation, effectiveness, and judgment, but also concerning the applicant's ethics and professionalism.

1. Names of applicants will be published in a State Bar of Arizona publication, providing an opportunity for comment, at least 30 days before consideration of applications by the Advisory Commission. Reference names supplied by the applicant shall not include members of the Board of Legal Specialization or Criminal Law Advisory Commission. The Criminal Law Advisory Commission may also consult other sources. Documentation of all matters and comments considered by the Advisory Commission shall be contained in the applicant's file.

E. Continuing Legal Education Requirements. Continuing legal education requirements for attorneys certified as criminal law specialists shall be 12 hours per year in one or more seminar of advanced level programming, concentrated in criminal issues, consisting of 12 hours of substantive CLE activities in criminal law and 3 hours in professional responsibility. Credit for other educational activities may be granted by the BLS as specified in the Rules and Regulations, Section VIII.B.

III. STANDARDS FOR RECERTIFICATION

For purposes of recertification, the term *substantial involvement* shall mean engagement in legal

service in the course of which applicant shall have devoted, on an annual basis, time equivalent to approximately half or more of a fulltime practice to matters in which issues of criminal law are significant factors. The applicant for recertification shall make a satisfactory showing of such involvement.

To this end, the applicant shall provide a comprehensive list of the work and activity undertaken in the field of criminal law since the previous certification. The listing should include a detailed description of any listed item or area which involved such a level of complexity of issues, or expenditure of time, or quality of result as to qualify that particular work or activity as extraordinary. Activities to be listed include, but are by no means limited to:

1. Trials. Indicate whether felony or misdemeanor, to a jury or to the court.
2. Hearings. See Section II.B. I.b, above for examples.
3. Activities of a type described in Section II.B.I.c, above.
4. Litigation with respect to grand jury proceedings (Do not disclose confidential information in the application).
5. Pre-indictment representation, investigation and negotiations.
6. Independent counsel investigations for business clients.
7. Compliance representation.
8. Teaching.
9. Additional criminal matters which demonstrate continuing substantial involvement in criminal law.

The applicant must also demonstrate a continued high level of competence and adherence to high ethical standards as referenced in Section II.C. References as required in Section II.D for initial certification shall be required.

These requirements shall be detailed on an application form supplied by the Board and supplemented with additional information as appropriate. The Board or the Criminal Law Advisory Commission may require oral or written supplementation.

Formal written examination shall not be required in connection with recertification where there has been no break in certification.