

**Comment on Minimum Experience Levels Required for Certification for Class B and C Felonies (Standard 14.2(E))**

(Adopted by the WSBA Board of Governors 11/5/2022)

The Council on Public Defense has been asked to clarify the minimum standards required for certification for non-violent Class B and C felonies, especially regarding courtroom experience.

**All attorneys seeking to represent indigent persons charged with Class non-violent B and C felonies must have been counsel alone on two jury trials or handled a significant portion of the trial of two cases submitted to a jury. Currently, an attorney may also certify if they meet the experience requirements of the Supreme Court's emergency order No. 25700-B-656.**

Attorneys representing indigent persons in Washington must comply with the Standards for Indigent Defense, CrR 3.1, CrRLJ 3.1, JuCR 9.2, and MPR 2.1.

Section 14.2(E) details the additional requirements attorneys must meet to handle non-violent Class B and C felonies.

Section (i) requires the attorney to meet the general requirements of Standard 14.1.

Section (ii) states attorneys must have the following experience:

1. Served a year in a prosecutor's office; or
2. Served a year in a public defender's office; or
3. Spent a year in private criminal law practice.

Section (iii) states the attorney certifying their experience has been trial counsel alone in two jury trials or with other trial counsel or handled a significant portion of the trial in two criminal cases that have been submitted to a jury.

**To certify that they can handle non-violent Class B and C felonies, an attorney must meet all three requirements of Section 14.2(E).**

Due to the disruptions of the Covid-19 pandemic, emergency order No. 25700-B-656 temporarily amended the minimum experience requirements. This modification still requires all attorneys to have had at least one jury trial. Instead of a second jury trial, the attorney can certify that they have briefed and argued two separate evidentiary motions that included witness testimony; were trial counsel alone for a bench trial; or had attended a multi-day trial skills training program, such as the Washington State Office of Public Defense's Criminal Defense Training Academy.



Attorneys not meeting these minimum requirements may not certify that they meet the requirements to represent persons charged with non-violent Class B and Class C felonies.

Supervisors should not encourage attorneys working in public defense offices to certify if they do not meet these minimum qualifications.