

Tips from TCDLA's Capital Assistance Committee on How to Take Capital Cases

In Texas, handling capital cases, which involve the possibility of the death penalty, requires specific qualifications, procedures, and skills no one tells you about. Here are recommendations and general steps and considerations for lawyers who want to take on capital cases in Texas once you have a law license:

1. Gain Criminal Defense Legal Experience:

Work as a practicing attorney for at least five years in criminal defense. This experience is crucial for building the skills needed to handle complex capital cases.

2. Fulfill Certification Requirements:

Become board-certified in criminal law: The Texas Board of Legal Specialization offers certification in criminal law. While not mandatory, obtaining certification demonstrates a high level of competence in the field and can enhance your credibility in handling capital cases.

3. Meet Texas Capital Defense Standards:

Familiarize yourself with the Texas Capital Defense Standards: The State Bar of Texas and the Texas Court of Criminal Appeals have established standards for attorneys handling capital cases. Familiarize yourself with these standards to ensure compliance.

4. Special Training and Continuing Legal Education (CLE):

Attend TCDLA training programs and CLE courses; these are low-cost, if not free, and many have travel stipends. Capital cases require specialized knowledge and skills. Participate in training programs, workshops, and CLE courses specifically focused on capital defense to enhance your expertise.

5. Join TCDLA, Capital Assistance Committee, and Capital Listserv:

Connect with TCDLA's committee and listserv specializing in capital defense: Join relevant professional organizations, such as the Texas Criminal Defense Lawyers Association (TCDLA), to stay informed about developments in capital defense and network with other professionals in the field. The Listserv allows you to see what discussions are held and the committee keeps you updated on relevant laws and issues.

6. Exposure to Capital Cases

Attend capital hearings or watch past ones to understand what it entails. Talk to Capital attorneys and ask them about challenges and how they have been successful.

7. Trial Experience:

Gain trial experience: Handling capital cases often involves complex trial proceedings. Build your trial experience by participating in criminal trials and deeply understanding courtroom procedures. Ask to sit the second chair to our TCDLA members on the capital listserv or a colleague.

8. Mitigation & Investigation:

Understand the skills and team members needed for mitigation and investigation: Mitigation is a crucial aspect of capital defense, involving presenting evidence to mitigate the severity of the punishment. Know what is necessary to investigate and present adequate mitigation evidence.

9. Seek Appointments:

Apply for appointment in capital cases: In Texas, attorneys are often appointed to represent defendants in capital cases, mainly if the individual cannot afford legal representation. Contact the local public defender's office or the regional capital habeas unit to express your interest in handling capital cases and determine the requirements.

10. Get a mentor: TCDLA has a mentor program designed for those wanting to get involved with capital defense.

11. Stay Informed About Death Penalty Laws:

Stay updated on death penalty laws: Keep abreast of changes in death penalty laws, court decisions, and legal developments in Texas. This knowledge is essential for providing effective representation.

It's important to note that the specific requirements and procedures may vary, and it's advisable to consult with the State Bar of Texas and TCDLA for the most accurate and up-to-date information. Additionally, capital defense work is highly demanding and requires a deep commitment to the ethical and legal responsibilities of representing individuals facing the death penalty.