

Supreme Court Training Session Offered for Skilled Lawyers Who Defend Indigents in Criminal Cases; Basic-Skills Course Set by Indigent Defense Commission

Virginia lawyers who want to represent indigent criminal defendants will have an unprecedented choice of training programs in the near future—before July 1, when new, tougher requirements for qualifying to be on the court-appointed list go into effect.

An all-day program of Advanced Skills for the Experienced Practitioner, taught by nationally recognized experts from Virginia and elsewhere, will take place May 20 in two locations. The live program will be held at the Richmond Convention Center, with a simulcast to the Southwest Virginia Higher Education Center in Abingdon. The program will carry approximately six hours of continuing education credits. Details, such as cost, are still being worked out.

The Advanced Skills program is a creation of Chief Justice Leroy R. Hassell Sr. and the Supreme Court of Virginia, with support from the Virginia State Bar.

A more basic two-day CLE program—Indigent Defense Certification Training, designed for less-experienced lawyers who want to be on the list that judges draw from for court-appointed criminal defense—will be offered several times at different locations from March 28 through May 24 by the Virginia Indigent Defense Commission. No charge will be made for the training; attendance will be limited to fifty or fewer attorneys for each program.

Both the advanced and basic training programs are available to public defenders and to private practitioners who want to qualify as court-appointed counsel to indigents.

Virginia Code § 19.2-163.03 sets out the criteria that lawyers of different experience levels must meet as of July 1, 2005, to receive court-appointed misdemeanor and felony cases in adult and juvenile courts. The criteria require specified hours of approved Mandatory CLE credit and experience as counsel or co-counsel in criminal trials.

The new standards and training programs are responses to ongoing criticism that Virginia's indigent defense system inadequately protects the rights of people charged with crimes.

Indigent Defense Certification Training

The basic certification training was developed by the Indigent Defense Commission, which the General Assembly created last year to take the place of the Virginia Public Defender Commission. The Indigent Defense Commission is charged with supporting, training and overseeing all attorneys who defend indigent people charged with jailable crimes.

The commission is charged with monitoring the quality of court-appointed lawyers, keeping a list of qualified attorneys that courts can draw from, and establishing standards of practice.

Topics covered during the two-day course include client interviewing; pretrial strategies; and handling misdemeanor, traffic and felony cases in general district and circuit courts. Topics also include the function of juvenile court, the role of the

juvenile defender, and the juvenile court adjudicatory and disposition process.

By statute, the certification programs are required to provide six hours of misdemeanor/felony training and four hours of juvenile defense training. The commission has applied for that CLE credit.

Locations and times for the certification training were still being worked out at press time. The schedule so far is:

March 28–29 (live)—Fredericksburg, at the Holiday Inn Select, 2801 Plank Road. This session is cosponsored by the Virginia Association of Criminal Defense Lawyers.

April 11–12 (live)—Virginia Beach.

April 18–19 (live)—Richmond.

April 25–26 (live plus video)—Radford.

May 9–10 (live plus video)—Manassas.

May 23–24 (live plus video)—Bristol.

Further details and registration information will be posted at the Indigent Defense Commission's Web site, www.indigentdefense.virginia.gov.

Advanced Skills

After reviewing information and concerns about the quality of representation of indigent defendants, the Chief Justice decided to focus on providing training to more experienced lawyers. He assembled a group—the Indigent Defense Training Initiative—to develop the project for the Supreme Court. [See sidebar, page 17.]

In addition to expressing concerns about low pay, public defenders and court-appointed lawyers said better training needs to be in place. “Some voiced concerns that the level of training for those who represent indigent defendants has not been consistent from year to year,” said Virginia Court of Appeals Judge Walter S. Felton Jr., who chairs the training initiative.

Hassell’s discussions with the judiciary and criminal bar convinced him that an important factor in quality representations is “to assure that attorneys ... have trial skills beyond the basic level, that these attorneys understand the unique situations involving the indigent accused, and that they have access to training to provide and hone those skills,” Felton said.

Topics for the May 20 program will include use of experts; working with DNA; current issues in scientific evidence; carrying a case from trial to appellate court; using demonstrative evidence; and hearsay and confrontation issues raised by the Crawford case.

Felton said Hassell hopes to provide ongoing advanced defense training in different parts of the state.

VSBA President-elect Phillip V. Anderson, a member of the organizing group for the advanced training project, said, “The VSBA is pleased to be a part of this important training initiative for Virginia lawyers who represent indigent people charged with crimes. Better training will improve skills, which will strengthen the quality of representation and ultimately result in justice for all Virginians,” he said.

For details on the Advanced Skills programs, watch the Virginia State Bar Web site—www.vsb.org—beginning in late March. A brochure also will be mailed.

Indigent Defense Draws Critics—Initiatives Announced by Court and Bar Groups

The Supreme Court of Virginia, with its Indigent Defense Training Initiative, joins a growing number of groups and projects that are attempting to improve Virginia’s system for defending criminal defendants who do not have money to hire a lawyer.

Chief Justice Leroy R. Hassell Sr. directed the Court’s initiative toward enhancing training for lawyers experienced in court-appointed or public defender work, while the General Assembly’s Virginia Indigent Defense Commission developed courses for attorneys who need basic skills training.

Both programs will support the new criteria for qualifying to be on Virginia’s court-appointed list—criteria that go into effect July 1.

Under the chairmanship of Virginia Court of Appeals Judge Walter S. Felton Jr., the Court’s training initiative chose for its first two venues a major city and a rural region. Advanced Skills for the Experienced Practitioner will be presented May 20, live at the Richmond Convention Center, with a simulcast to the Southwest Virginia Higher Education Center in Abingdon. (See accompanying story, page 16.)

The course is financially supported by the Virginia State Bar.

A series of reports and recent editorials in Virginia-circulated newspapers have drawn attention to serious flaws in indigent criminal representation. Among the groups that have taken on projects to try to remedy the problems are:

- The Virginia Association of Criminal Defense Lawyers, which, with a grant from the Virginia Law Foundation, is cosponsoring some of the training provided by the Indigent Defense Commission.
- The Virginia Bar Association, which last week released a report on Virginia’s indigent defense system that concluded: “The state of indigent defense in Virginia has long been, and continues to be, deplorable . . . That fact is well-known to all three branches of state government . . . Drastic remedial action to increase compensation for court-appointed counsel and resources for [public defenders] is necessary . . . Increases in compensation and resources must be accompanied by quality controls.”
- The Virginia Crime Commission, which is in the midst of a multiyear study of the prosecutorial system.
- The Virginia Indigent Defense Coalition, sponsored by the Virginia Trial Lawyers Association Foundation and several other groups, which provides education and brings together different constituencies on indigent-defense issues.
- The Virginia Indigent Defense Commission, created by the General Assembly to train, certify and oversee public and private lawyers who defend indigents in criminal cases.
- The Virginia State Bar’s Criminal Law Section, which is monitoring legislation that bears on indigent defense issues.
- The VSBA’s Task Force on Indigent Defense, which issued a list of needed reforms that was endorsed by the VSBA Council.
- The Virginia Women Attorneys Association, which endorsed legislation that would increase court-appointed attorney fees by 50 percent. The legislation was pending before the General Assembly at press time.