Legal Aid Alberta

Quality Standards for LAA Certificates Issued for Designated Sexual Offences

Effective Date: January 1, 2026

Re: Criteria for Designated Sexual Offence Certificates

Preface

Providing access to effective counsel is a core priority in *Legal Aid Alberta's Strategic Plan 2023-2026: The Path Forward.* As outlined in the roster lawyer Strategy Overview, Legal Aid Alberta ("LAA") is entrusted to act in the best interest of its clients. An important part of the work is brokering quality legal expertise from its roster of independent Alberta lawyers. It is imperative that the LAA roster comprises quality counsel who understands the law and adheres to LAA policies, procedures, processes, and the Tariff.

Sexual offence proceedings include not only complex legal and evidentiary rules but also require significant experience due to the sensitive nature of these criminal matters. These considerations require roster lawyers to have considerable knowledge and understanding of criminal law directly related to these offences.

Due to concerns arising from certificates issued in cases involving Criminal Code offences listed under the designated sexual offence list, it was recognized that no minimum standards of knowledge and experience for sexual offences have been implemented by LAA to ensure roster lawyers possess the requisite knowledge and experience to competently conduct these matters.

Therefore, LAA has decided to require minimum experience requirements and criteria for roster lawyers representing LAA clients for Designated Sexual Offences. This will ensure roster lawyers possess the requisite knowledge and experience to competently represent our clients. These are hereinafter referred to as the "Designated Sexual Offences Standards", or the "Standards".

Designated Sexual Offences List

Effective the above date, the following criteria will apply to all LAA certificates that include any of the following *Criminal Code* offences:

s.151 (Sexual interference)
s.152 (Invitation to sexual touching)
s.153 (1) (Sexual exploitation)
s.153.1 (1) (Sexual exploitation of person with disability)

s.155 (1) (Incest)
s.160 (1) (Commits bestiality)
s.160 (2) (Compelling the commission of bestiality)
s.160(3) (Bestiality in the presence of a child)
s.162 (4) (Printing/Publishing voyeuristic recordings)
s.162.1 (Publication of intimate image without consent)
s.163 (1) (Making or distributing obscene materials-general provision)
s.163 (2) (Making or distributing child pornography)
s.163.1(2) (Making child pornography)
s.163.1(3) (Distribution of child pornography)
s.163.1 (4) (Possession of child pornography)
s.163.1 (4.1) (Accessing child pornography)
s.170 (Parent or guardian procuring sexual activity)
s.171(1) (Householder permitting prohibited sexual activity)
s.171.1 (1) (Making sexually explicit material available to a child)
s.172 (1) (Corrupting children)
s.172.1 (1) (Luring a child)
s.172.2 (1) (Agreement/arrangement-sexual offence against a child)
s.173 (1) (Indecent act)
s.173(2) (Indecent exposure)
s. 271 (Sexual assault)
s. 272 (1)(a) (Sexual assault with a weapon)
s.272(1)(b) (Sexual assault with threats)
s.272(1)(c) (Sexual assault with bodily harm)
s.272(1)(d) (Party to sexual assault)
s. 273 (1) (Aggravated sexual assault)
s. 273.3 (1) (Removal of child from Canada)
s. 279.01 (1) (Trafficking in persons)
s. 279.011 (1) (Trafficking of a person under the age of eighteen years)
s. 279.02 (1) (Material benefit-trafficking)
s. 279.02 (2) (Material benefit-trafficking of person under 18 years)
s. 286.1(2) (Obtaining sexual services for consideration from person under 18 years)
s. 286.2 (2) (Material benefit from sexual services from person under 18 years)
s. 286.3 (2) (Procuring a person under 18)

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Minimum Requirements

LAA has sole discretion in determining whether roster lawyers meet the following minimum requirements. There is no ability to appeal this decision.

Roster lawyers must meet the following requirements to be considered for LAA's Designated Sexual Offence certificates:

a) Experience

1. Active lawyer authorized by the Law Society of Alberta to practice in Alberta.
2. Under no circumstances will a student-at-law be offered a certificate for matters that fall under these Standards.
3. If a complaint has been filed against a roster lawyer with the Law Society of Alberta or other professional regulator in Canada, the roster lawyer will seek the written consent of the Law Society of Alberta or other professional regulator to notify LAA of the existence and status of the complaint. If the Law Society of Alberta or other professional regulator consents, the roster lawyer will immediately notify LAA of the existence and status of the complaint as permitted by the Law Society of Alberta or other professional regulator.
4. The roster lawyer will immediately notify LAA if the Law Society of Alberta or another professional regulator issues a Citation.
5. The roster lawyer agrees to forthwith provide to LAA a copy of the Citation.
6. To be authorized to provide certificate services for designated Sexual Offences, a roster lawyer must be authorized to provide LAA certificate services on general criminal law matters at LAA.
7. In addition to the paragraphs immediately above, a roster lawyer must have the following minimum experience before being offered a certificate to provide certificate services for Designated Sexual Offences. This paragraph includes roster lawyers who have joined the private defence bar within two years of working for the Alberta Crown Prosecution Service or equivalent Prosecution Service in Canada:

    a. Minimum of 3 years of practice in criminal law in Canada.

    b. As former Crown or as Defence Counsel in Canada:

i. Prosecuted or conducted eight LAA certificates or the equivalent number of private retainer criminal files to completion in Canada, containing contested trials and/or contested preliminary hearings, or the equivalent from other Legal Aid Plans in Canada.

ii. Of the eight above certificates, private retainer criminal files or prosecutions, five contested trials of an offence enumerated in the Designated Sexual Offences list above; and,

iii. Of the eight above certificates, private retainer criminal files or prosecutions, acted as counsel, co-counsel or junior counsel on at least two jury trials, if the election on the file matter is to be tried by Judge and Jury;

iv. For the period ending December 31, 2027, the requirements contained in paragraph 7(b)iii shall be reduced from two jury trials to one jury trial;

c. Of the eight above certificates, private retainer criminal files or prosecutions, conducted or significantly contributed to the conduct of at least three *voir dires* that includes the following:

i. Two contested applications pursuant to s. 276 or s.278 of the *Criminal Code;* and

ii. One contested application regarding the admissibility of hearsay evidence.

b) Continuing Professional Development

8. A roster lawyer must agree to commit to completing a minimum of four hours of Continuing Professional Development each year relevant to the conduct of the defence of Designated Sexual Offence certificates.

c) Mandatory Reading List

9. A roster lawyer must complete the Mandatory Reading List (**Appendix A**) provided by LAA and attest to completion to LAA prior to being offered a certificate for Designated Sexual Offences.

10. The Mandatory Reading List will be periodically updated and posted by October 31 of each year. These cases are the minimum counsel should be familiar with.

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Addendum

d) Legacy Counsel

11. As an alternative to the requirements set out in paragraph seven above, and in recognition of the significant contributions made by LAA legacy counsel, existing roster lawyers who have been on the LAA Roster continuously for the past five complete years, and who are not the subject of an Audit or Quality of Service Review by LAA, will be accepted as counsel eligible to receive offers for Designated Sexual Offence certificates, if they comply with the following conditions:

    a. Minimum of five complete years of practice as roster lawyers who have previously indicated they will accept LAA Certificates in Criminal Law
    b. That they have conducted a minimum of 15 LAA criminal certificate files to completion that involve offences enumerated above as a Designated Sexual Offences
    c. The requirement to agree to commit to completing a minimum of four hours of Continuing Professional Development as set out in paragraph eight remains
    d. The requirement to complete the Reading List as noted in paragraphs nine and 10 remains

Attachments

See attached Appendix A

Appendix A

Required Reading and Comprehension

Sex Offender Information Registration Act, S.C. 2004, c. 10

1. *R. v. Ndhlovu*, 2022 SCC 38 (SCC)
2. *R. v. Kloubakov*, 2025 SCC 25 (SCC)

General

3. *Kienapple v. R.*, [1975] 1 S.C.R. 729 (SCC)
4. *R. v. Pappajohn* (1980), 52 C.C.C. (2d) 481 (SCC.)
5. *R. v. Wesaquate*, 2022 SKCA 101 (SKCA)

Wilful blindness/honest belief/recklessness

6. *Sansregret v. The Queen*, [1985] 1 SCR 570 (SCC)
7. *R. v. George*, 2017 SCC 38 (SCC)
8. *R. v. Wesaquate*, 2022 SKCA 101 (SKCA)
9. *R. v. Bilinski*, 2025 ABCA 270 (ABCA)
10. *R. v. Hutton*, 2025 ABCA 356 (ABCA)

s.276/277

10. *R. v. Seaboyer*, [1991] 2 S.C.R. 577 (SCC)
11. *R. v Barton*, 2017 ABCA 216 (ABCA)
12. *R. v. Barton*, 2019 SCC 33, [2019] 2 S.C.R. 579
13. *R. v. Goldfinch*, 2019 SCC 38, [2019] 3 S.C.R. 3 (SCC)
14. *R v Kapustinsky*, 2020 ABQB 611 (ABQB)
15. *R. v. Kruk*, 2024 SCC 7 (SCC)
16. *R. v. Kinamore*, 2025 SCC 19 (SCC)

Consent/Nature of consent

17. *R. v. Cuerrier*, [1998] 2 S.C.R. 371 (SCC)
18. *R. v. Ewanchuk* (1999), 131 C.C.C. (3d) 481 (SCC)
19. *R. v. Hutchinson*. 2014 SCC 19 (SCC)
20. *R. v Barton*, 2017 ABCA 216 (ABCA)
21. *R. v. Barton*, 2019 SCC 33, [2019] 2 S.C.R. 579 (SCC)
22. *R. v. G.F.*, 2021 SCC 20, [2021] 1 S.C.R. 801 (SCC)

23. *R. v. H.W.*, 2022 ONCA 15 **(ONCA)**
24. *R. v. Wesaquate*, 2022 SKCA 101 **(SKCA)**
25. *R. v. Kirkpatrick*, 2022 SCC 33, [2022] 2 SCR 480 **(SCC)**

Production of records

26. *R. v. Mills*, [1999] 3 S.C.R. 668 **(SCC)**

Similar fact evidence

27. *R. v. Shearing*, [2002] 3 S.C.R. 33, 2002 SCC 58 **(SCC)**

Sexual interference v. sexual assault

28. *R. v. L. (S.)*, 2013 ONCA 1311 (Ont. C.A.), leave to appeal to S.C.C. refused [2013] S.C.C.A. No. 218 **(SCC)**

Reliance on impermissible stereotypes about behaviour of sexual assault victim

29. *R. v A.R.D.*, 2017 ABCA 237 **(ABCA)**
30. *R. v. A.R.J.D.*, 2018 SCC 6, [2018] 1 S.C.R. 218 **(SCC)**
31. *R. v. Barton*, 2019 SCC 33, [2019] 2 S.C.R. 579
32. *R. v. Goldfinch*, 2019 SCC 38, [2019] 3 S.C.R. 3 **(SCC)**
33. *R. v. Kruk*, 2024 SCC 7 **(SCC)**
34. *R. v. Kinamore*, 2025 SCC 19 (SCC)

Constitutionality of sections of CCC

35. *R. v. Morrison*, 2019 SCC 15 **(SCC)**
36. *Quebec (Attorney General) v. Senneville*, 2025 SCC 33

After-the-fact conduct

37. *R. v Barton*, 2017 ABCA 216 **(ABCA)**
38. *R. v. Barton*, 2019 SCC 33, [2019] 2 S.C.R. 579 **(SCC)**

Inconsistant verdicts

39. *R. v. R.V.*, 2021 SCC 10) **(SCC)**

Reliance on assumptions about behaviour (as opposed to stereotypes)

40. *R. v. Kruk*, 2024 SCC 7 **(SCC)**

Sentencing basics

41. *R. v. Sandercock*, 1985 ABCA 218 **(ABCA) (Starting Points)**

42. ***R. v. Wells*, [2000] 1 S.C.R. 207** **(SCC) (Indigenous Offender)**
43. ***R v Hajar*, 2016 ABCA 222** **(ABCA) (Starting Points)**
44. ***R v Shrivastava*, 2019 ABQB 66** **(ABQB) (Starting Points)**
45. ***R v Friesen*, 2022 ABCA 147** **(ABCA) (Children)**
46. ***R. v. Friesen* (2020), 391 C.C.C. (3d) 309, 444 D.L.R. (4th) 1** **(SCC) (Children)**