



October 6, 2025

The Honorable Pam Bondi
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Dear Attorney General Bondi:

As the state official with responsibility for federal habeas corpus litigation, I respectfully request that you certify that the State of Mississippi meets the requirements under Chapter 154 of Title 28 of the United States Code for special habeas corpus procedures in capital cases.

In support of certification, I offer the following memorandum describing Mississippi's mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in state post-conviction proceedings brought by indigent prisoners who have been sentenced to death. Should you require any additional information, please do not hesitate to contact me.

Sincerely,

Attorney General
State of Mississippi

**State of Mississippi’s Application for
Certification Under 28 U.S.C. § 2265**

The Attorney General of Mississippi respectfully requests that the Attorney General of the United States certify that Mississippi meets the requirements for habeas certification under 28 U.S.C. § 2265. Mississippi established a mechanism for providing competent, adequately resourced counsel to indigent prisoners who have been sentenced to death and wish to proceed with state post-conviction proceedings. Mississippi thus satisfies all relevant statutory criteria.

Background

For over twenty-five years, indigent death-row post-conviction petitioners in Mississippi have been entitled to appointed counsel, attorney compensation, and reasonable litigation expenses—rights the Mississippi Supreme Court affirmed in 1999. *Jackson v. State*, 732 So. 2d 187 (Miss. 1999), *abrogated on other grounds by Ronk v. State*, 391 So. 3d 785 (Miss. 2024). That same year, the Mississippi Supreme Court amended Mississippi Rule of Appellate Procedure 22 to prescribe the qualifications required of counsel in capital post-conviction proceedings. Miss. R. App. Proc. 22(d). The next year, the Mississippi Legislature reinforced this commitment by enacting the Capital Post-Conviction Counsel Act. H.B. 1228, Reg. Sess., 2000 Miss Laws, ch. 569 §§ 1–18. The Act established the Office of Capital Post-Conviction Counsel (CPCC) to provide “representation to indigent parties under sentences of death in post-conviction proceedings, and to perform such other duties as set forth by law.” Miss. Code Ann. § 99-39-105. It also codified Mississippi Code Annotated section

99-15-18, which governs the compensation for non-CPCC attorney's representing indigent capital post-conviction petitioners. 2000 Miss Laws, ch. 569, § 15.

Together, these legislative and judicial measures reflect a deliberate policy choice: to ensure that capital post-conviction petitioners are not denied meaningful access to justice because of inadequate resources or unqualified counsel. By creating a dedicated office, setting attorney qualifications, and regulating compensation, Mississippi sought to balance fairness, efficiency, and accountability in capital post-conviction litigation, recognizing that the gravity of a death sentence demands heightened procedural protections.

I. Mechanism for Appointing Competent Counsel

Chapter 154 of title 28 of the United States Code (Chapter 154) imposes three competency-related conditions for certification of States' counsel-appointment mechanisms. *First*, a State must establish a process for identifying indigent capital prisoners and offering one or more competent counsel to these prisoners. 28 U.S.C. §§ 2261(c), 2265(a)(1)(A). *Second*, the State must offer capital prisoners the choice of a new post-conviction attorney who was not previously involved in the prisoner's case. § 2261(d). *Third*, the State must establish competency standards for post-conviction counsel appointed under the State's mechanism. § 2265(a)(1)(C). Mississippi meets all three requirements.

A. Mississippi has a mechanism for identifying indigent capital prisoners and offering one or more competent counsel to these prisoners.

Chapter 154 first requires a qualifying State to establish a mechanism for identifying death-sentenced indigent prisoners and appointing counsel to represent

those inmates during state post-conviction proceedings. A qualifying state mechanism

must provide for the entry of an order by a court of record (1) appointing one or more counsels to represent the prisoner upon a finding that the prisoner is indigent and accepted the offer or is unable competently to decide whether to accept or reject the offer; (2) finding, after a hearing if necessary, that the prisoner rejected the offer of counsel and made the decision with an understanding of its legal consequences; or (3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

28 U.S.C. § 2261(c). *See also* 28 U.S.C. § 2265(a)(1)(A).

To qualify as an “appointment” of counsel, representation must be provided in a “reasonably timely” manner, taking into account the deadlines for seeking State and federal collateral review and the time needed to develop and present post-conviction claims. 28 C.F.R. § 26.21.

Mississippi’s mechanism meets these requirements. In Mississippi, a capital defendant may collaterally challenge a conviction, a sentence, or both by filing a verified petition for post-conviction relief within one year of the judgment’s finality. Miss. Code Ann. § 99-39-5(2)(b). *See also Puckett v. State*, 834 So. 2d 676, 677 (Miss. 2002) (one-year statute of limitations begins to run when mandatory state appellate review is complete). Before filing, two steps occur. First, once the defendant’s conviction and sentence are affirmed on direct appeal, the Supreme Court must immediately order the trial court to determine whether the defendant is indigent and, if so, whether the defendant wants appointed counsel for post-conviction proceedings. Miss. R. App. Proc. 22(c)(1)(ii); *see also* Miss. Code Ann. § 99-39-23(9). This order is

served on the trial court. *Id.*; *see also* Miss. Code Ann. § 99-39-23(9) (“The order shall direct the trial court to immediately determine indigence and whether the inmate will accept counsel.”). This order is also served on CPCC, which was created to represent indigent capital defendants and is the presumptive appointee.

Second, the trial court determines whether the petitioner is indigent, desires appointment of counsel for post-conviction proceedings, or has retained qualified private counsel. Miss. R. App. Proc. 22(c)(1)(ii). Capital petitioners, of course, are free to decline representation from CPCC, proceed pro se, or secure alternative outside counsel on their own. If the trial court determines that the petitioner has retained “qualified private counsel,” then CPCC’s attorney is discharged from their representation. Miss. R. App. Proc. 22(c)(1)(iii). If the petitioner opts to proceed pro se, then CPCC attorneys remain in place as advisors. Miss. R. App. Proc. 22(c)(1)(iii).

A recent case illustrates how these requirements operate in practice. The Mississippi Supreme Court affirmed Willie Cory Godbolt’s convictions and resulting death sentences. *Godbolt v. State*, 407 So. 3d 86 (Miss. 2024). The mandate, indicating appellate review was final, issued on April 30, 2025. Mandate, *Godbolt v. State*, No. 2020-DP-00440-SCT (Miss. Apr. 30, 2025). Within two weeks, pursuant to Mississippi Code Annotated section 99-39-23(9) and Mississippi Rule of Appellate Procedure 22(c)(1)(ii), the Court ordered CPCC to appoint counsel to represent Godbolt in post-conviction proceedings and directed the trial court to determine Godbolt’s indigence and desire for representation. Order, *Godbolt v. State*, No. 2025-DR-00524-SCT (Miss. May 12, 2025).

The trial court held a hearing, confirmed Godbolt’s indigence, and accepted his decision to be represented by CPCC in state-court post-conviction proceedings after which both the trial court and appointed counsel notified the Mississippi Supreme Court. Trial Court Order, *Godbolt v. State*, No. 2025-DR-00524-SCT (Miss. July 10, 2025).

This provision is “reasonably timely” under 28 C.F.R. § 26.21 in view of the time limitations on state and federal collateral review and the time necessary to develop and present collateral review claims. A timely, properly filed petition for post-conviction relief tolls the one-year statute of limitations for filing a subsequent federal habeas corpus petition under 28 U.S.C. § 2244(d)(2).

The state-court appointment of post-conviction counsel necessarily precedes the development and presentation of collateral review claims. Once counsel is appointed, Rule 22 establishes both the framework and the deadlines that govern the filing of a petition. Early appointment—immediately after the direct appeal becomes final—serves an important policy function: it ensures that counsel has sufficient time to investigate, research, and develop potential claims, thereby safeguarding the petitioner’s meaningful access to collateral review.

Under Rule 22, within sixty days of appointment, counsel “shall examine the record and preliminarily investigate and shall file with [the Mississippi Supreme] Court a statement that having done so, counsel ... either finds no issues with potential post-conviction merit or finds that there are issues which are believed to be meritorious.” Miss. R. App. Proc. 22(c)(4)(i). This requirement reflects the policy

judgment that post-conviction representation should be active and diligent, not merely nominal.

Rule 22 also imposes strict filing deadlines for post-conviction petitions—either sixty days after denial of rehearing of the direct appeal or 180 days after counsel’s appointment, whichever is later. Miss. R. App. Proc. 22(c)(5)(i). By tying these deadlines to counsel’s appointment, the rule recognizes that effective representation requires time to identify and present “cognizable claims,” and it ensures that such claims are brought promptly and responsibly in the interest of finality, fairness, and judicial economy. Although the filing deadlines are strict, courts frequently grant filing extensions to appointed counsel, recognizing that flexibility both promotes access to justice—by allowing meaningful development of complex claims—and enhances judicial efficiency by reducing the risk of incomplete or piecemeal litigation.

Mississippi’s comprehensive statutory and regulatory mechanism thus satisfies 28 U.S.C. § 2261(c) by requiring a court of record to make findings about a capital prisoner’s indigence and offer competent, court-appointed, state post-conviction counsel to all indigent capital prisoners.

B. Mississippi offers capital prisoners the choice of a new post-conviction attorney who was not previously involved in the prisoner’s case.

Chapter 154 next requires a qualifying state mechanism to offer indigent capital prisoners new post-conviction counsel that were not previously involved in the prisoner’s case. In particular, “[n]o counsel appointed pursuant to [a state mechanism for post-conviction representation] shall have previously represented the prisoner at trial in the case for which the appointment is made unless the prisoner and counsel

expressly requested continued representation.” 28 U.S.C. § 2261(d). *See* 28 C.F.R. § 26.22(a).

Mississippi law also satisfies that requirement. Mississippi prohibits CPCC attorneys from taking part, in any way, in the trial of someone charged with capital murder or in the direct appeal of someone sentenced to death. Miss. Code Ann. § 99-39-107. Mississippi Rule of Appellate Procedure 22(d)(4) does, however, allow both parties to “expressly request continued representation” if both parties “waive all potential issues that are foreclosed by continued representation.” The petitioner can of course decline representation from CPCC, proceed *pro se*, or secure alternative outside counsel.

Mississippi’s mechanism thus satisfies 28 U.S.C. § 2261(d) by offering all indigent capital prisoners competent court-appointed counsel with no prior involvement in the case.

C. Mississippi established competency standards for post-conviction counsel appointed under the State’s mechanism.

Finally, Chapter 154 requires a qualifying State “to provide[] standards of competency for the appointment of counsel.” 28 U.S.C. § 2265(a)(1)(C). These competency requirements must be presumptively adequate, under 28 C.F.R. § 26.22(b)(1), and reasonably assuring of an appropriate level of proficiency, under 28 C.F.R. § 26.22(b)(2).

A State’s standards for appointing competent counsel in capital post-conviction cases are presumptively adequate if they conform to the federal statutory standards

governing appointment of counsel in state capital cases,¹ or if they meet or exceed the following benchmark: appointment of attorneys admitted to the bar for at least five years with a minimum of three years' post-conviction litigation experience. 28 C.F.R. § 26.22(b)(1)(i). A court may, however, appoint other counsel for good cause when the attorney's background, knowledge, or experience would otherwise enable proper representation of the petitioner, taking into account the gravity of the penalty and the unique complexity of the litigation. 28 C.F.R. § 26.22(b)(1)(i).

Competency standards that do not satisfy the benchmark in paragraph (b)(1) will still be deemed adequate if they “reasonably assure a level of proficiency appropriate for State post-conviction litigation in capital cases.” 28 C.F.R. § 26.22(b)(2).

Mississippi's competency requirements for appointing counsel in capital post-conviction cases are presumptively adequate. As explained, capital prisoners in Mississippi are entitled to state post-conviction representation by an attorney from CPCC, or (if CPCC cannot accept the appointment) by a private attorney. These attorneys must satisfy state-imposed competency standards.

Mississippi Rule of Appellate Procedure 22(d) sets forth the standards and qualifications for attorneys appointed to represent death-row inmates in state post-conviction proceedings. At least one attorney handling a death-sentenced inmate's post-conviction case must take primary responsibility and personally appear in

¹ The regulation cites 42 U.S.C. § 14163(e)(1), which has since been reclassified as 34 U.S.C. § 60301. That provision authorizes the Attorney General to “award grants to States for the purpose of improving the quality of legal representation provided to indigent defendants in State capital cases.” 34 U.S.C. § 60301(a).

proceedings. That attorney must be: (1) a member in good standing of the Mississippi Bar for five years (or admitted pro hac vice with equivalent standing); (2) admitted to practice in Mississippi's federal courts and the Fifth Circuit (or the equivalent in their home jurisdiction); (3) experienced with at least three years in criminal trials, appeals, or post-conviction/habeas cases; (4) free from prior representation of the petitioner in trial or direct appeal, unless expressly requested and waived by the client; (5) knowledgeable in capital case law and properly trained, including completion of required educational training; and (6) demonstrably skilled and committed to providing high-quality, zealous advocacy. Miss. R. App. 22(d). However, with the trial court's approval, an attorney who does not meet the qualifications in (1)–(3) may still be appointed if the attorney's experience, stature, and record in another area of practice (such as civil litigation, academic work, or service with a court or prosecutor) demonstrate extensive experience in complex cases substantially equivalent to that of a qualified attorney. Miss. R. App. 22(d). Rule 22(e) further requires these attorneys to have completed at least twelve hours of accredited capital defense training within the year before their appointment.

CPCC was established for the sole purpose of providing “representation to indigent parties under sentences of death in post-conviction proceedings, and to perform other such other duties as set forth by law.” Miss. Code Ann. § 99-39-105. By design, the office's mandate is narrow: it may handle only death penalty post-conviction cases, ancillary matters directly connected to the review of those convictions and sentences, and other tasks expressly authorized by statute. Miss. Code Ann. § 99-39-107. This limitation reflects the Mississippi Legislature's intent to

create a specialized office focused exclusively on the unique and complex demands of capital post-conviction litigation. CPCC’s representation ends when federal habeas proceedings begin, unless the federal district court appoints a CPCC attorney to continue representation. *Id.*

The American Bar Association has promulgated specific guidelines for capital post-conviction counsel, including detailed commentary on seeking collateral relief in state and federal court. Am. Bar Ass’n, *Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases*, Guideline 10.15.1, 31 Hofstra L. Rev. 913, 1079–83 (2003).² Although Mississippi courts have not formally adopted these guidelines, both the Mississippi Supreme Court and the United States Supreme Court have cited them with approval. *Powers v. State*, 371 So. 3d 629, 709 (Miss. 2023); *Ronk v. State*, 267 So. 3d 1239, 1248 (Miss. 2019); *Wilson v. State*, 81 So. 3d 1067, (Miss. 2012). *See also Rompilla v. Beard*, 545 U.S. 374, 388 n. 7 (2005); *Strickland v. Washington*, 466 U.S. 668, 688 (1984) (“Prevailing norms of practice as reflected in American Bar Association standards and the like ... are guides to determining what is reasonable”). CPCC also underscores their relevance by providing access to those guidelines on its website,³ reinforcing Mississippi’s commitment to nationally recognized standards of effective representation in capital post-conviction proceedings.

Mississippi’s system of appointing counsel—most notably its 25-year practice

²https://www.americanbar.org/content/dam/aba/administrative/death_penalty_representation/2003guidelines.pdf. (last visited Aug. 29, 2025).

³<https://www.pcc.ms.gov/office-capital-post-conviction-counsel-documents> (last visited Oct. 3, 2025).

of employing a specialized post-conviction defender office dedicated exclusively to state-court capital collateral review cases—“reasonably assure[s] a level of proficiency appropriate for State post[-]conviction litigation in capital cases.” 28 C.F.R. § 26.22(b)(2). Mississippi thus “provides standards of competency for the appointment of counsel.” 28 U.S.C. § 2265(a)(1)(C).

II. Compensation

Within this framework, Chapter 154 imposes two compensation-related requirements. *First*, the state mechanism must provide “compensation [for] competent counsel.” 28 U.S.C. § 2265(a)(1)(A); 28 C.F.R. § 26.22(b)(1). *Second*, the state must provide for “payment of reasonable litigation expenses.” *Id.*; 28 C.F.R. § 26.22(d). Mississippi meets both requirements.

CPCC employs five full-time, qualified attorneys, two mitigation specialists, one investigator, and one office administrator.⁴ The attorneys employed by CPCC are well compensated. CPCC attorneys are paid commensurately with Mississippi district attorneys and assistant district attorneys. Miss. Code Ann. § 99-39-109. The Director is compensated no more than the maximum allowed for a district attorney (currently \$134,400) and other attorneys are compensated at no more than the maximum allowed for assistant district attorneys (currently \$120,960). *Id.*; *see* Miss. Code Ann. §§ 25-3-35(6), (7). Pursuant to H.B. 1509, approved by the Governor on April 17, 2025, those salaries will rise to \$150,100 for a district attorney and \$135,090 for an assistant district attorney effective January 1, 2026. The Director of the Office

⁴ Mississippi Office of Capital Post-Conviction Counsel, <https://www.pcc.ms.gov/about-us> (last visited Oct. 3, 2025).

of Capital Post-Conviction Counsel may make more than the statutory salary for the Attorney General of the State of Mississippi, which is \$150,000. Miss. Code Ann. § 25-3-31. CPCC attorneys are compensated comparably to appointed counsel at the trial or direct appeal of a capital case. Miss. Code Ann. § 99-18-9. In fact, the State compensates CPCC attorneys at a higher rate than the four attorneys who represent the State in post-conviction proceedings. Salaries for equivalent positions in the Death Penalty Litigation Team of the Office of the Attorney General range from \$94,000 to \$109,000. And their volume of work is higher than CPCC attorneys, as these attorneys also represent the State in capital direct appeals and capital federal habeas corpus proceedings.

The Mississippi Legislature adequately funds CPCC to ensure qualified counsel and litigation support. For fiscal year 2026, the Mississippi Legislature appropriated CPCC's nine-person office with more than \$2 million dollars: \$1,996,447 from the State General Fund and \$206,000 from the State Treasury. 2025 Miss. Laws, 1st Ex. Sess., H.B. 33. CPCC is also "authorized to solicit and accept monies, gifts, grants or services from any public or private source, for the purposes of funding, operating and executing the duties of the office." Miss. Code Ann. § 99-39-119.

When representation by CPCC attorneys might create a conflict of interest, or if ever the office's caseload would make representation impracticable, the CPCC Director has statutory authority to retain private counsel. Miss. Code Ann. § 99-39-117(1). This safeguard ensures that indigent defendants under sentence of death are not deprived of qualified representation due to conflicts or resource constraints. Under the statute, fees and expenses of privately appointed counsel—including costs

for investigators and expert witnesses—must be approved by order of the appropriate court and are paid from funds specifically appropriated for that purpose. *Id.*

Privately appointed counsel are paid an hourly rate but no more than 80% of the federal habeas rate in Mississippi district courts. Miss. Code Ann. § 99-15-18(2). *See* 18 U.S.C. § 3599(g). Section 99-15-18 requires privately appointed counsel to submit periodic invoices for fees and expenses to the trial court. *Id.* at (3)-(5). Section 99-15-18(6) further allows the trial court, on petition, to approve additional funds for necessary investigative and expert services to litigate the post-conviction claims. Miss. Code Ann. § 99-15-18(6).

Since the office's creation, the State is not aware of any eligible petitioner who declined representation by CPCC as initial post-conviction counsel. CPCC has handled nearly all such cases at the initial post-conviction stage, except for two conflict cases and a few instances when it associated outside counsel. *See* Miss. Code Ann. § 99-39-117 (authorizing CPCC director to retain qualified private counsel in cases of conflict or excessive caseload). In those situations, outside counsel either served pro bono or submitted invoices for fees and expenses in accordance with Section 99-15-18.⁵ Most death-row inmates file successive petitions for post-conviction relief, and CPCC serves as counsel in the majority of those cases. According to its most recently available program performance measures, CPCC's output in fiscal

⁵*See, e.g.,* Order, *Spicer v. State*, No. 2006-DR-00625-SCT (Miss. June 24, 2006); Order, *Chamberlin v. State*, No. 2008-DR-01690-SCT (Miss. Sept. 23, 2010).

year 2025 was 150.⁶ This number reflected the following work: “file petitions; prepare briefs, pleadings, and replies; conduct hearings; and perform other legal procedures.”⁷

Mississippi’s system of compensation for appointed counsel in capital post-conviction cases is presumptively adequate under 28 C.F.R. § 26.22(c)(1).

III. Effective Date of Mississippi’s Mechanism

Pursuant to 28 U.S.C. § 2265(a)(2), the Attorney General must determine the date on which a state’s mechanism for the appointment, compensation, and paying the expenses of post-conviction counsel became effective. In Mississippi, the Capital Post-Conviction Counsel Act and Mississippi Code Annotated Section 99-15-18—statutory authorization for compensation of non-CPCC attorneys representing indigent capital post-conviction petitioners—took effect on July 1, 2000. Separately, effective June 24, 1999, the Mississippi Supreme Court amended Mississippi Rule of Appellate Procedure 22(d) to establish the qualifications required of counsel in capital post-conviction proceedings. Effective July 27, 2000, the Court adopted Rule 22(e), which set training requirements for post-conviction counsel in capital cases.

Accordingly, at the latest, Mississippi’s mechanism became effective on July 1, 2000, when CPCC was created and section 99-15-18 was enacted to ensure

⁶Office of Capital Post-Conviction Counsel, Program Performance Measures, <https://www.lbo.ms.gov/PublicReports/DownloadReportFile?ReportId=183836> (last visited Oct. 3, 2025).

See also Office of Capital Post-Conviction Counsel, Budget Request for Fiscal Year ending June 30, 2023, <https://www.lbo.ms.gov/PublicReports/AllReportsForAgency?FiscalYear=2023&AgencyFileNumber=098-00> (last visited Oct. 3, 2025).

⁷*Id.*

compensation for non-CPCC counsel. Thus, the proposed effective date for Mississippi's mechanism satisfying the relevant certification criteria is July 1, 2000.

IV. Conclusion

For the reasons set forth, Mississippi fully satisfies the requirements for certification of its mechanism for appointing, compensating, and reimbursing expenses for competent counsel in state-court capital collateral proceedings. Pursuant to 28 C.F.R. § 26.21, I am the appropriate State official to seek such certification, and I respectfully request that the Attorney General certify Mississippi's mechanism under 28 U.S.C. § 2265.